2

A Historical Overview of Philanthropy, Voluntary Associations, and Nonprofit Organizations in the United States, 1600–2000

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The terms *nonprofit sector* and *nonprofit organization* are neologisms. Coined by economists, lawyers, and policy scientists in the decades following World War II as part of an effort to describe and classify the organizational domain for tax, policy, and regulatory purposes, the meaning varies depending on the identity and intentions of the user.

Defined narrowly, the terms refer to entities classified in section 501(c)(3) and 501(c)(4) of the Internal Revenue Code of 1954 and subsequent revisions: nonstock corporations and trusts formed for charitable, educational, religious, and civic purposes which are exempt from taxation and to which donors can make tax-deductible contributions. The terms can also refer to the broader range of organizations in section 501(c)—categories that include political parties, trade associations, mutual benefit associations, and other entities that enjoy various degrees of exemption, accord donors various kinds of tax relief, and are constrained in distributing their surpluses in the form of dividends.

Most broadly construed, the terms refer to the larger universe of formal and informal voluntary associations, nonstock corporations, mutual benefit organizations, religious bodies, charitable trusts, and other nonproprietary entities. Some of these are classified as exempt organizations by the Internal Revenue Service (IRS); others, such as religious bodies (which are not required to incorporate or apply for tax-exempt status) and informal organizations (which David Horton Smith [2000] calls the "dark matter" of the nonprofit universe), are not.

None of the contemporary definitions does justice to the complex historical development of these entities and activities. Every aspect of nonprofits that we consider distinctive—the existence of a domain of private organizational activity, the capacity to donate or bequeath property for charitable purposes, the distinction between joint stock and nonstock corporations, tax exemption—was the outcome of unrelated historical processes that converged and assumed significance to one another only at later points in time.

Processes of development and change are continuous and ongoing. The institutional and organizational realities we attempt to capture in creating such synoptic terms as *nonprofit sector* are, at best, of only temporary usefulness. Because such frameworks may incentivize collective behavior (as when entrepreneurs come to understand the economic benefits associated with nonprofit ownership or the tax benefits of charitable giving), they may actually serve to accelerate processes of growth and change. It is no accident that the impressive proliferation of registered tax-exempt nonprofits in the United States from fewer than 13,000 in 1940 to more than 1.5 million at the end of the century coincided with legislative and regulatory policies that defined and systematically favored nonprofits and those who contributed to their support. Nor is it a coincidence that ownership of hospitals shifted from predominantly public and proprietary in 1930

to nonprofit by the 1960s to proprietary by the century's end with changes in tax and health policy.

Under these circumstances, any attempt to produce a definitive historical account of the development of the nonprofit sector is problematic. At best, one can chronicle the emerging and converging institutions, practices, concepts, and shifting allocations of collective tasks between public and private actors.

CHARITABLE, EDUCATIONAL, RELIGIOUS, AND OTHER NONPROPRIETARY ACTIVITIES BEFORE 1750

The land area now occupied by the United States was the object of rivalry between several European powers. Spain occupied a huge area of North America, stretching from today's Florida, Alabama, and Louisiana in the Southeast through Texas, New Mexico, and Arizona in the Southwest and California on the West Coast. France occupied Canada and much of Maine and the territories composing the Louisiana Purchase. The Dutch held New York. The Swedes established a small colony on the Delaware River. And a variety of British settlements, most of them initially ventures by private trading companies, occupied the East Coast between Maine and Georgia.

Settlement began at a time when European law was still emerging from the shadow of feudalism. Statutes were uncodified and judicial decisions only spottily reported. Customary and local law continued in effect, resistant to efforts to impose national uniformity on centuries-old patchworks of parliamentary enactments, royal decrees, and decisions by a variety of lay and ecclesiastical courts. Accordingly, the legal and institutional heritage of the Old World that colonists brought with them varied, depending on where they had come from and the nature and extent of their encounters with the legal systems of their native lands (Billias 1965).

Religion and material circumstances affected the ways in which colonists drew on Old World institutions and practices. In the farther reaches of the Spanish empire, where colonial administrators were few and far between, clergy tended to assume judicial responsibilities, bringing to the task notions of the law that owed more to Scripture and local custom than to the laws of Spain or Mexico (Saunders 1995, 1998; Rosen 2001). Beyond administrative centers like Montreal, the French took a similarly casual view of legal formality, freely adapting Old World practices to New World exigencies (Banner 1996).

The legal and governmental institutions of British North America developed very differently from those of the French and Spanish colonists, who governed substantial native populations as agents of the papacy or the Crown. In contrast, the English settled in areas with sparse native populations, and as inhabitants of colonies established by joint stock companies (such as Massachusetts and New York) or proprietorships (such as Pennsylvania and New Hampshire) their primary task was crafting institutions of self-government. This orientation to self-government was evident even in royal colonies (such as Virginia and the Carolinas), where governors appointed by the Crown held sway with the assent of elected legislative assemblies.

The English brought with them a rich heritage of self-governing corporate institutions. Townships, the basic political building block outside the South, were treated under the law as municipal corporations, with citizens electing boards of selectmen. Churches—even Catholic congregations before the appointment of an American bishop in the 1790s—were governed by boards of deacons, elders, or vestrymen elected by their congregations. The handful of colleges—Harvard (1636), the College of William and Mary (1693), Yale (1701), Columbia (1754), Brown (1764), Dartmouth (1769), and the College of Charleston (1770)—were governed by boards of self-perpetuating and ex officio (either elected officials or clergy) trustees, fellows, and overseers.

Like the French and the Spanish, the English settlers also shaped their Old World legal and institutional heritage to suit circumstances and their religious and political inclinations. In Congregationalist Massachusetts and Connecticut and in Anglican Virginia, where churches were supported by taxation and dissenters were forbidden to practice their faiths, religion was tightly bound to the interests of government. In colonies such as Rhode Island and Pennsylvania, where religious toleration was the rule, self-supporting and self-governing congregations enjoyed an autonomy that anticipated the status of voluntary associations of the nineteenth century.

While evidently familiar with associational and corporate forms of collective action, the colonists were slow to embrace them. Corporate institutions such as Harvard and Yale were regarded as governmental or quasi-governmental entities (Whitehead 1973). Purely private corporations in the modern sense were virtually unknown, since colonial governments lacked the authority and legal knowledge to issue charters. By the middle of the eighteenth century, fraternal organizations (such as the Freemasons) and other informal clubs and associations (such as Benjamin Franklin's famous Junto) began to appear. But on the rare occasions when they sought to formalize their status—as did a group of Connecticut physicians who sought to incorporate as a medical society—their efforts were firmly rejected.

Charitable and educational activities that had primarily been the responsibility of the church in England were parceled out variously in the colonies (Trattner 1979; Katz 1996). In Virginia, as in England, parishes took care of the poor and ignorant. In New England, these responsibilities were exercised by municipal authorities. In larger cities such as New York, Boston, and Philadelphia, city governments operated specialized facilities—almshouses—to care for the dependent and disabled—out of which came the Bellevue hospitals of New York (1731) and Pennsylvania (1751; Rothman 1971).

Because colonial legal codes did not clearly distinguish between public/private and proprietary/nonproprietary do-

mains, corporations and associations (when they existed at all) served public rather than private purposes. These included maintaining public order and providing education, poor relief, and (in most colonies) religious services. Government meant a very different thing in colonial America than it does today; although colonial governments and municipalities collected taxes and enacted laws, they usually entrusted the actual tasks of caring for the poor, healing the sick, and educating the ignorant to families who could provide these services at the lowest cost. In New England villages, for example, the poor and dependent were often auctioned off to the lowest bidder. Where churches were tax-supported, the tasks of levying and collecting these taxes were carried out by the churches themselves, acting under authority delegated to them by government (McKinney 1995). Many of the early almshouses were contracted out to managers who could operate them at the lowest cost to the public.

In colonial America, public and private domains were so imperfectly delimited that, in New England, it took until the 1670s for private property rights to be clearly established—and another 125 years passed before common law conceptions of property rights were universally accepted (Nelson 1975; Horowitz 1977). Legislatures generally refused to grant equity jurisdiction to colonial courts, and without them, trusts—charitable and testamentary—were unenforceable, resulting in the misdirection or failure of early charitable trusts (*Prescott v. Tarbell* 1804; Bowditch 1889; Curran 1951; Hall and Marcus 1998).

In addition to substantial gifts from abroad, there was a modest tradition of indigenous philanthropy. The bequests of clergyman John Harvard in 1638 to the colony ("towards erecting a Colledge") and Boston merchant Robert Keayne in 1656 to the town of Boston ("for a Conduit and a Town House Comprising a Market Place, Court Room, Gallery, Library, Granary, and an Armory") and to Harvard College (which received books and real estate) suggest that while charitable giving was not unknown in colonial America, government was more likely than any private body to be its recipient (Bailyn 1970). Such institutions as Harvard, William and Mary, and Yale were regarded as public corporations, subject to legislative oversight and supported significantly in the form of legislative grants of money, real estate, and "privileges" (which could range from the levying of special taxes to a monopoly on the operation of ferries) (Sears 1922; Foster 1962; Harris 1970).

Both the growth of trade and the integration of the colonies into the British commercial system in the late seventeenth and early eighteenth centuries initiated a wholesale transformation of legal, political, social, and religious institutions. For much of the first century of settlement, the English settlers of North America had been cut off from Europe by the Puritan Revolution and by incessant religious warfare on the continent. After the restoration of the Stuart monarchy in 1665, the Crown and Parliament began to look to the colonies as sources of cheap raw materials and growing markets for manufactured goods. Because trade regulations restricted the colonists' production of certain manufactured goods, which British merchants were eager to exchange for certain commodities (timber, fish, tobacco, furs), growing numbers of Americans entered into a market economy, creating growing differences in wealth and upsetting traditional patterns of deference and mutual responsibility.

Natural population increase, supplemented by renewed immigration, disrupted older forms of community. Trade brought epidemics of smallpox and other diseases, as well as an increasingly visible population of poor and dependent people for whom the public was expected to take responsibility. These changes forced Americans of the early eighteenth century to rethink the meaning of scriptural injunctions about loving one's neighbor. Influenced by Newtonian cosmology, Boston minister Cotton Mather (1663–1728) reframed doctrines of charity in *Bonifacius* (1710), advocating "friendly visiting" of the poor, the use of voluntary associations for mutual support, and philanthropic giving by the rich to relieve the poor and support schools, colleges, and hospitals. The first American to be elected to the prestigious Royal Society (an early association of scientists), Mather was influenced by the growth of urban charities in England and the ideas of British Enlightenment philosophers and scientists (Wright 1994).

Mather's ideas had a profound influence on Benjamin Franklin (1706–1790), who, after leaving Boston for Philadelphia in 1723, would carry out many of them (Franklin 1961). As a journeyman printer in London in the 1720s, Franklin acquired firsthand knowledge of the flourishing voluntary associations being created by the merchants and artisans of the rising middle class (Jordan 1960). He joined the Freemasons in London—and organized the first American lodge on his return. Freemasonry would spread rapidly in the colonies and would serve a key role—as one of America's only translocal organizations—in carrying forward the movement for independence from Great Britain (Dumenil 1984; Clawson 1989; Fischer 1994). He subsequently organized an influential young men's association, the Junto, which served as a model for young men's and mechanic's societies throughout the colonies; a volunteer fire company; and a circulating library—as well as the privately supported academy which eventually became the University of Pennsylvania.

Although voluntary associations and philanthropic giving began to appear in such urban centers as Boston and Philadelphia by the middle of the eighteenth century, cities were only one of the taproots out of which American voluntarism would grow. In rural areas, economic changes led to important changes in religious belief and practice. While the cosmopolitan Cotton Mather drew on Newtonian physics to redefine the moral universe and to plot a course toward religious rationalism, the backcountry theologian Jonathan Edwards (1703–1758) drew on the ideas of English philosopher John Locke to recast Calvinism in ways that stressed the spiritual sovereignty and moral agency of the individual—and to develop a sophisticated psychology of conversion. The preaching of Edwards and other evangelicals

helped to spark a nationwide religious revival—the Great Awakening—which challenged the power of government over religious matters and, in doing so, gave politics a spiritual dimension by legitimating resistance to political tyranny (Bushman 1967).

The Awakening's emphasis on liberty of conscience led many Americans to break away from the religious establishment, embracing the new evangelical creeds being preached by itinerant Baptist and Methodist evangelists. Efforts by the religious establishment to protect its prerogatives stimulated the political activism of the clergy. The increasingly politicized clergy played an important role as revolutionary leaders, fueling political engagement and associational activity at the community level.

REVOLUTION AND REPUBLIC, 1750–1800

Voluntary associations played key roles in the American Revolution and in subsequent efforts to organize republican government. The Freemasons spread rapidly, with lodges and influential members in virtually every town of any size by the 1770s. As the only secular translocal organization of the era—and the only transcolonial one—the Freemasons linked together many of the leaders of the revolutionary struggle. Freemasonry would provide an organizational model for more explicitly political groups, such as the Sons of Liberty (Fischer 1994).

Religious groups also played important roles. While churches had not yet developed translocal denominational structures to any great extent, informal ties between settled clergy and itinerant evangelical preachers and missionaries, who went from town to town holding religious services and seeking converts, helped to spread news of political events and to infuse political ideas with powerful religious messages ("resistance to tyrants is obedience to God").

The centrality and effectiveness of voluntary associations in the Revolution served to kindle hostility toward them after the war, as Americans sought to establish governmental and legal institutions based on democratic principles. Democratic theory as it existed in the late eighteenth century viewed associations as inimical to popular government, not only because any combination of citizens was viewed as a threat to the political rights of individuals, but also because people feared that such associations representing special interests could capture control of elected governments. James Madison's famous tenth essay in the *Federalist Papers* (1787) was addressed to the hazard that "factions"—associations representing special interests—posed to democratic government. A decade later, after having crushed armed rebellions by tax resisters and suffered virulent abuse by the anti-Federalist opposition, which was organized as "democratic societies," George Washington warned in his 1796 Farewell Address against "all combinations and Associations, under whatever plausible character, with the real design to direct, controul[,] counteract, or awe the regular deliberation and action of the Constituted authorities." These associations, he asserted, "serve to organize faction, to give it an artificial and extraordinary force; to put in the place of the delegated will of the Nation, the will of a party; often a small but artful and enterprising minority of the Community." They are likely, he declared, "in the course of time and things, to become potent engines, by which cunning, ambitious and unprincipled men will be enabled to subvert the Power of the People, and to usurp for themselves the reins of Government; destroying afterwards the very engines which have lifted them to unjust domination" (Washington 1796).

During the last quarter of the eighteenth century, most states outside New England enacted laws restricting the powers of corporations, repealing sections of British common law relating to charities, and restricting the ability of citizens to give property to charities (Davis 1917). Southern states, influenced by Jefferson's concerns about "un-republican" institutions, were particularly hostile to private corporations, associations, and charities. Virginia disestablished the Anglican Church and confiscated their assets (*Terrett v. Taylor et al.* 1815; Hirchler 1939). New York created the Regents of the University of the State of New York, which exercised regulatory authority over all educational, professional, and eleemosynary organizations (Whitehead 1973). Pennsylvania annulled the Elizabethan Statute of Charitable Uses and, by declining to give its courts equity powers, discouraged the establishment of charities, since without equity jurisdiction, courts could not enforce trust provisions (Liverant 1933).

Even such states as Connecticut and Massachusetts, which would become the national centers for the chartering of corporations and the founding of private charities after 1800, were ambivalent about them in the decades immediately following the Revolution: Connecticut limited the amount of property eleemosynary corporations could hold, while Massachusetts declined for decades to grant its courts the equity powers needed to enforce charitable and other trusts (Curran 1951). Like other Americans of the time, Massachusetts Attorney General James Sullivan worried about the hazards that "the creation of a great variety of corporate interests" posed for republican institutions (Sullivan 1802).

Sullivan's misgivings were not far-fetched. In New England, which had chartered two-thirds of the 300 corporations in existence by 1800, business and eleemosynary entities had been generally chartered by conservative legislatures to help established elites resist the democratic masses, who were themselves using associational vehicles to mobilize politically (Davis 1917). As the nation completed its first decade under the federal Constitution, the institutions of republican government still seemed extraordinarily fragile. And of all the forces threatening its stability, none seemed so potently dangerous—to conservatives and liberals alike—as associations (which could accumulate unlimited political power) and corporations (which could accumulate unlimited economic power).

The nub of the problem was the essentially unresolvable tension between voice and equality posed by the Constitution, with its simultaneous commitments to majoritarian

decision making and to inviolable individual rights. On the one hand, without such intermediary organizations as voluntary associations, government, though *de jure* the servant of the people, was *de facto* the master of the people—since without intermediary collectivities, the people had no way of making their influence felt, save at election time (see Tocqueville 1988). On the other hand, the existence of these associations seemed incompatible with democratic institutions, since organized collectivities—operating beyond the control of government, especially if invested with property rights—both made some citizens "more equal" than others and threatened to undermine the egalitarian foundation of the new governmental order.

At the end of the eighteenth century, indigenous philanthropy and voluntarism were still embryonic. Most philanthropy was devoted to public institutions—municipal governments, schools and colleges, and religious congregations (most of which were tax-supported). Voluntary participation in organizations was restricted to fraternal associations, local social clubs, a handful of medical societies, and the secretive political societies that would eventually form the basis for political parties. The absence of a legal infrastructure to enforce charitable trusts, as well as broad hostility toward corporations, discouraged private initiatives professing to benefit the public.

PUBLIC AND PRIVATE CHARITY AND ASSOCIATIONS, 1800–1860

Ambivalent as citizens were about voluntary associations, the conditions of political and economic life in early America compelled people to embrace them. For political and religious dissenters, associations were the only means available for counteracting the conservative political elites that dominated public life. Similarly, these elites, once displaced, embraced associations and eleemosynary corporations to maintain and extend their public influence when they could no longer do so through the ballot box. A developing economy required larger, more broadly capitalized enterprises and ways of spreading risk, which were only possible through joint stock companies—much of the capital for which would come from the invested endowment funds of charitable, educational, and religious institutions (White 1955; Hall 1974). The hazards and uncertainties of urban life could be mitigated through fraternal associations which helped members and their families financially in times of illness and death (Beito 2000; Kaufman 2002). Associations of artisans protected their members from exploitation and sought to ensure that they received fair prices for their work. By the 1820s, when Alexis de Tocqueville visited the United States, Americans were using associations for all sorts of purposes and were beginning to donate impressively large sums of money to private institutions.

Religion played a particularly important role in fueling the proliferation and acceptance of associational activity and giving for public purposes. The dismantling of religious establishments and increasing religious toleration fueled sectarianism—the splitting off of new religious groups from old ones. At the same time increasingly universal religious toleration permitted many Americans to abandon religion entirely. By 1800, it is estimated that fewer than one in five Americans belonged to any religious body (Finke and Stark 1992). The rising number of unchurched citizens was viewed by the pious as both a threat to democracy and a challenge to their powers of persuasion. A second Great Awakening, begun in the 1790s, brought together the major Protestant groups in a cooperative effort in which associations would become essential parts of their "evangelical machinery" (Foster 1960; Wosh 1994).

The Search for an American Law of Charity

Given the primitive state of American law in the early nineteenth century, it was inevitable that the increasing number of voluntary associations and growing range of purposes they served, as well as the swelling amounts of property being given for charitable, educational, and religious purposes, would produce political controversy, acrimonious litigation, and landmark court rulings (Wyllie 1959; Miller 1961). The federal system, which limited the power of the central government and allowed states wide latitude to set their own policies, ensured that the outcome of this process would reflect the diversity of preferences already characteristic of the American people.

The most famous of these struggles involved New Hampshire's Dartmouth College. Founded in 1769 under a royal charter on a gift from the Earl of Dartmouth, the college remained stalwartly Congregationalist in a state in which religious dissenters had become the dominant political force. In 1816, the state's newly elected Baptist governor, William Plumer, with encouragement from Thomas Jefferson, took control of the college and proceeded to reorganize it as a public institution. Its twelve-member self-perpetuating board was replaced by twenty-one gubernatorially appointed trustees and twenty-five legislatively appointed overseers who enjoyed veto power over the trustees (Jefferson 1856:440–441). The president of the college was required to report annually to the governor on its management, and the governor and his council were empowered to inspect the college every five years and report on its condition to the legislature.

When the old board of trustees contested the action, the New Hampshire Supreme Court upheld the state, drawing on the generally accepted doctrine that corporations, as creations of the legislature, were entirely subject to the state's will (*Trustees of Dartmouth College v. William H. Woodward* 1817). The story might have ended there had not influential U.S. senator and Dartmouth alumnus Daniel Webster (1782–1852) suggested that the ousted board of trustees appeal to the U.S. Supreme Court on the grounds that the state had violated Article II, Section 10 of the Constitution, which forbade states from impairing the obligation of contracts. The Court, which had been wrestling with a succession of suits involving eleemosynary corporations, accepted

the case for review and evidently viewed it as an opportunity for a landmark decision.

In representing the old trustees, Webster conceded that the college's charter, like that of any corporation, was an act of government. But, he suggested, individuals had been encouraged by that grant of corporate powers to make donations and bequests to trustees of the institution. Though the use was public, Webster argued, this did not diminish the private character of the donated property: the gifts were made to the trustees and, as such, constituted private contracts between the trustees and the donors—contracts which the Constitution prohibited the states from abrogating.

The court, with a single dissent, accepted Webster's argument. The case, Chief Justice John Marshall asserted, did not involve the corporate rights of the college. If it did, the New Hampshire legislature might "act according to its own judgement, unrestrained by any limitation of its power imposed by the Constitution of the United States." Rather, it involved the individual rights of the donors who had given property to Dartmouth's trustees. The charter, Marshall stated, was not a grant of political power, an establishment "of a civil institution to be employed in the administration of government," or a matter of government funds. It was, rather, a "contract to which the donors, the trustees, and the Crown (to whose rights and obligations New Hampshire succeeds) were the original parties. It is a contract made on a valuable consideration. It is a contract for the security and disposition of property. It is a contract on the faith of which real and personal estate has been conveyed to the corporation. It is then a contract within the letter of the Constitution and within its spirit also" (*Trustees of Dartmouth College v. William H. Woodward* 1819). As such, Marshall ruled, Dartmouth's charter could not be altered by the legislature "without violating the Constitution of the United States."

Despite the ruling in the Dartmouth College case, legal doctrines on the status of eleemosynary corporations remained confused. Although the Court affirmed the Constitution's prohibition of states' impairing the obligation of contracts, the decision did not require states to treat charitable corporations favorably. Even today, many states remain hostile to charities despite the Dartmouth ruling.

Even the Supreme Court itself seemed ambivalent about the issue: in the same term in which it decided for Dartmouth College, it also affirmed the power of the Commonwealth of Virginia to hold invalid a charitable bequest by one of its citizens to establish a religious charity in another state (*Philadelphia Baptist Association v. Hart's Executors* 1819). It was not until 1844 that private charity received an unambiguous blessing from the federal courts, when the Supreme Court heard the Girard will case (*Francois Fenelon Vidal et al. v. The Mayor, Aldermen, and Citizens of Philadelphia, et al.* 1844). The case involved the will of Stephen Girard (1750–1831), a multimillionaire Philadelphia merchant who had left the bulk of his estate to the city for public works and for the establishment of a school for orphans. The central issue in this case involved the status of charitable bequests in states that had repealed the Statute of Charitable Uses. In the erroneous belief that the power to establish charitable trusts stemmed from this statute, earlier court decisions had upheld the power of states that had annulled it to limit or prohibit such trusts. But by the 1840s, advances in legal scholarship permitted the attorneys for the Girard estate to show that the Elizabethan statute had, in fact, merely been the codification of a long series of previous acts and precedents and that, as a result, the status of charitable trusts was unaffected by the repeal of the 1601 statute. Although the decision in the Girard will case secured under federal law the right of individuals to create charitable trusts, this decision did not affect particular states which chose to limit their activities. Nor did it particularly stress the importance of private philanthropy, since most of the objects of Girard's legacy were public institutions.

By the end of the nineteenth century, the legal and regulatory treatment of philanthropic and charitable institutions and voluntary associations fell into two broad categories (Zollmann 1924). A handful of states, almost all of them in New England, embraced a "broad construction" of charity under which virtually any kind of not-for-profit associational activity was not only permitted but encouraged through tax exemptions. For example, Massachusetts's 1874 charities statute extended property tax exemption to any "educational, charitable, benevolent or religious purpose" including "any antiquarian, historical, literary, scientific, medical, artistic, monumental or musical" purpose; to "any missionary enterprise" with either foreign or domestic objects; to organizations "encouraging athletic exercises and yachting"; to libraries and reading rooms; and to "societies of Freemasons, Odd Fellows, Knights of Pythias and other charitable or social bodies of a like character and purpose" ("An Act" 1874). Trustees who managed charitable funds were both permitted broad authority in financial management and protected from claims by donors and beneficiaries.

Most other states favored a "narrow construction" of charity, which restricted the kinds of activities that could be legally deemed charitable and required even those to demonstrate their redistributional and noncommercial intent as a condition for tax exemption. Thus, for example, Pennsylvania's nineteenth-century charities statute required that such entities advance a charitable purpose (as defined in the statute), donate or render gratuitously a substantial portion of its services (limiting a charity's ability to charge fees), benefit a substantial and indefinite class or persons who are legitimate subjects of charity, relieve government of some of its burdens, and operate entirely free of private profit motives (see *Episcopal Academy v. Philadelphia et al., Appellants* 1892 and Zollmann 1924). Clearly, many of the kinds of entities designated as charitable under Massachusetts law would not have been regarded as such in Pennsylvania.

Where charities and tax laws favored private initiatives, philanthropic and voluntary enterprises flourished. Where the law discouraged them, they did not (Bowen et al., 1994; Schneider 1996). In the Northeast and upper Midwest, privately supported schools, colleges, and charities were founded in great numbers. In the South and West, public in-

stitutions—state universities and public hospitals being the most notable examples—were established instead.

The Rise of Voluntary Associations

Even as early as the 1830s, Alexis de Tocqueville took note of the extraordinary variety of voluntary associations and ways in which they were used by different groups. "The affluent classes of society," he wrote, "have no influence in political affairs. They constitute a private society in the state which has its own tastes and pleasures." "The rich," he continued, "have a hearty dislike of the democratic institutions of their country." Deprived of direct political influence by their small numbers, the "chief weapons" used by the wealthy to make their views known were newspapers and associations, which they used to "oppose the whole moral authority of the minority to the physical power that domineers over it" (Tocqueville 1945, 1:187). Speculating on the social and political consequences of industrialization, Tocqueville foresaw the emergence of an "aristocracy of manufactures" whose members would take on the power of "administrators of a vast empire" (Tocqueville 1945, 2:169). Though politically disempowered, this aristocracy would exercise its power through the private institutions that were becoming increasingly central to the nation's development. By midcentury, such metropolitan centers as Boston, New York, and Philadelphia boasted constellations of cultural, educational, and charitable institutions tightly linked by interlocking boards of directors. These not only enabled moneyed elites to extend their cultural and political influence but also, to the extent that institutional endowments were among the largest capital pools of the period, served as arenas for collective economic decision making. It was no accident that Massachusetts, whose charity-friendly laws permitted such institutions as Harvard and the Massachusetts General Hospital to accumulate substantial endowments, became an early center of investment banking—based on the strategic investment of these funds in the textile industry and western railroads (White 1957).

In describing the temperance movement, Tocqueville noted the marked differences between the organizations used by the wealthy to pursue their agendas and those used by average citizens. "The first time I heard in the United States that a hundred thousand men had bound themselves publicly to abstain from spirituous liquors," he wrote, "it appeared to me more a joke than a serious engagement, and I did not at once perceive why these temperate citizens could not content themselves with drinking water by their own firesides. I at last understood that these hundred thousand Americans, alarmed by the progress of drunkenness around them, had made up their minds to patronize temperance. They acted just the same way as a man of high rank who should dress very plainly in order to inspire the humbler orders with a contempt of luxury. It is probable that if these hundred thousand men had lived in France, each of them would singly have memorialized the government to watch the public houses all over the kingdom" (1945, 2:110). The temperance groups were organized as federations of state and local organizations that coordinated their activities nationally through staffed headquarters, newspapers, and periodic convenings of delegates (Putnam and Gamm 1999; Skocpol 1999a; Skocpol 1999b).

The increasing use of associations by ever larger numbers of Americans helped to clarify the distinctions not only between public and private domains of activity but also between commercial and noncommercial organizations. Early corporation statutes drew little distinction between joint stock companies and membership associations (Dunlavy 2000). Over time, as Americans grew more familiar with the possibilities of associational and corporate forms, their experiments were eventually codified in the law.

In the course of this process, many of the activities that we today think of as especially suited for nonprofits—arts, culture, education, and health care—were as likely to be produced by commercial enterprises as by noncommercial ones. Not until the end of the century, when rising taxes on real estate and other organizational assets and the imposition of inheritance taxes created financial incentives to adopt the not-for-profit corporate form, did the distinction between proprietary and nonproprietary firms emerge with any clarity. The efforts of urban elites in the post–Civil War decades also helped to clarify the distinction, as wealthy cultural entrepreneurs organized nonprofit orchestras and museums, closely tied to nonprofit universities, to help define and solidify the collective identity of the social groups to which they belonged (Fox 1963; Story 1980; Horowitz 1976; DiMaggio 1986; Bender 1987; Wooten 1990).

By the 1850s, Americans had largely overcome their suspicion of voluntary associations and private charity. Elites, displaced by religious disestablishment and the political mobilization of the "common man," turned to philanthropy and associational activity as alternatives to electoral politics (Bledstein 1976). The learned professions, especially medicine and engineering, formed national associations to define and uphold professional standards and to promote the diffusion of knowledge: the American Statistical Association was founded in 1839; the American Psychiatric Association in 1844; the American Medical Association in 1847; the American Society of Civil Engineers in 1852; and the American Institute of Architects in 1857 (Wiebe 1967; Haskell 1977; Haskell 1984; Calhoun 1965; Hatch 1988; Brint 1994; Kimball 1995). As they were drawn into the industrial system, artisans and laborers began organizing mutual benefit associations to provide social insurance and assert their political and economic rights. Evangelical Protestants used associations both to proselytize and to advance such social reforms as temperance, sabbatarianism, and work among the poor. Farmers used associations to promote agricultural improvements and to broaden markets for their products. Socially excluded groups, such as free blacks and immigrants, established their own congregations and fraternal associations. Barred from electoral politics, women used associa-

tions to create a "separate sphere" of educational, religious, and cultural activity (McCarthy 1982; Blair 1989; Ginzberg 1990; Scott 1991; Sander 1998). Electoral politics became firmly grounded in associational forms and economic activity was increasingly carried out through incorporated associations, while social life for Americans rich and poor became increasingly defined by participation in religious and secular associations.

The sheer variety of association forms in this period makes it difficult to generalize about them. Some were genuinely private and independent of government. Others were quasi-governmental, receiving government funds or having governing boards on which government officials sat ex officio. Some served the interests of the privileged; others served the needs of common people. They both enabled majorities to assert their power and protected minorities from assaults on their liberties. Organizationally, they ranged from ad hoc community-level gatherings to elaborately formalized trusts and corporations. Some were supported by sales of services and government funding, others by donations, endowment income, or some combination thereof. Although the vast majority of associations were purely voluntary, the largest ones—colleges, hospitals, and such entities as the American Bible Society and the American Tract Society—were being run by cadres of salaried employees (Bacon 1847; Wosh 1994).

By the 1830s, recognizably modern forms of fund-raising had begun to emerge, as institutions actively solicited contributions and bequests from local and national constituencies and such public figures as the evangelist Lyman Beecher (1775–1862) toured eastern cities raising funds for schools and colleges in the newly settled western states. Increasingly well-informed about current events, Americans were quick to respond to disasters and liberation movements with generous "subscriptions." An 1845 survey of Boston charity gives a good idea of the range of organizations and causes to which citizens donated money: in addition to generous support for major institutions such as schools, colleges, libraries, and hospitals, Bostonians gave money to build churches and seminaries; to sustain domestic and foreign missionary societies; to erect public monuments; to relieve the suffering of fire victims in Mobile, Alabama, in Fall River and Pittsfield, Massachusetts, and in Hamburg, Germany; for the abolition of slavery; and for the "diffusing of information among immigrants" (Eliot 1845).

Tocqueville's exuberant proclamation that "Americans of all ages, all conditions, and all dispositions constantly form associations" was in many ways an exaggeration (1945, 2:106). While associations of various kinds proliferated in the first half of the nineteenth century, their growth was both geographically selective (with particular concentrations in the Northeast and upper Midwest) and was closely associated with religious demography, particularly variants of Calvinist Protestantism. Colleges and hospitals—which would eventually rank among the most important private institutions—were relatively small and marginal operations. Total enrollment at Yale—the largest college in the country—ranged between three hundred and six hundred until after the Civil War, and its endowment was less than a quarter of a million dollars (Pierson 1983). Both Harvard and Yale, with significant representation of elected officials on their governing boards, were not private institutions as we understand the term, though both would replace the ex officios with elected alumni representatives by 1870 (Hall 2000). The hospitals and medical schools languished, thanks to competition from unlicensed practitioners, rival schools of practice, and proprietary entities. Without a credible scientific basis on which to ground claims for professional authority, physicians were little more than businessmen. Voluntary associations in this period were overwhelmingly church related: religious congregations composed the largest part of the nonproprietary domain; private schools, colleges, and most private charities were invariably church related, even after disestablishment. Hospitals, fraternal associations and other mutual benefit organizations, and the few libraries extant before the Civil War were uniquely secular.

In the first half of the nineteenth century, while voluntary entities were assuming a recognized place in public life, the majority of the work of caregiving, healing, educating, and even worshipping took place in the primary institutions of family and community, rather than in associational or corporate settings. But as economic and social change eroded traditional communities and family ties, Americans were increasingly willing to experiment with new kinds of formal organizations.

Most of these were voluntary associations that enabled people to spread risk or pool resources to provide mutual benefits—such as building and loan societies and fraternal organizations that offered death and sickness benefits (Beito 2000). Some—the so-called utopian communities—attempted to create corporate cooperatives in which members held property in common and allowed their lives to be regulated by the collective (Noyes 1870; Bestor 1971; Kanter 1972). Some of these, such as the Oneida and Shaker communities, were religiously based. Others, such as the Fourierists and Robert Owen's New Harmony community, drew their inspiration from new socialist critiques of capitalism. In the years between 1830 and 1860, several hundred of these communities were established.

PRIVATE INSTITUTIONS AND THE CREATION OF THE MODERN STATE, 1860–1920

American institutional life on the eve of the Civil War was diverse, incoherent, and charged with possibilities. The economy was becoming increasingly urban and industrial, with growing metropolitan areas competing to dominate the commerce of surrounding regions through networks of roads, canals, and railroads—some publicly financed, others privately subscribed, and still others funded with a mix of public and private investment. Still, there was no national economy as such: few railroads or canals crossed state lines,

and capital was scarce and localized, except for ventures in which European investors took an interest. Most goods and services were produced in small, locally owned plants that distributed their products locally and regionally rather than nationally.

Slavery, Voluntary Associations, and the Nationalization of Political Culture

The only real exception to this pattern of localism was the cotton industry, a complex network of interdependencies involving slavery, plantation agriculture, textile production, and the financial services, transportation, and manufacturing activities that sustained it. King Cotton made its influence felt in both the North and South. Many of the great fortunes of Boston, New York, and Philadelphia philanthropists were derived from direct or indirect participation in the slave economy.

While Americans had owned slaves since colonial times, in the closing years of the eighteenth century many believed it to be a declining institution. The invention of the cotton gin in 1793, which made it possible to cheaply process varieties of cotton that grew well in the American South, changed all this. Cheaper American cotton found a ready market in Britain's growing textile industry, which had been dependent on cotton imported from India. As the international and domestic market for cotton grew, the slave trade and commodity agriculture based on slave labor became fabulously profitable. And as cotton agriculture flourished, southern slave owners and their northern allies began to press for the expansion of slavery into western territories and into such areas as Texas that were still under Spanish rule.

The cotton industry proved to be not only a major source of philanthropic funding but also a fertile source of associational activity, often in opposition to the growing influence of slavery supporters over national policy. Many Americans, particularly in the North, were troubled by the seeming conflict between slavery and a republic founded on the idea of inalienable human rights—a contradiction to which the British antislavery movement was quick to call attention. Organized antislavery agitation began in the 1780s, with the establishment of the Pennsylvania Society for the Abolition of Slavery, one of whose founders was Benjamin Franklin. In 1787, free blacks in Philadelphia founded the Philadelphia Free African Society, which soon had counterparts in Boston, New York, and Newport, Rhode Island.

In 1816, a prestigious group which included diplomat and future president James Monroe, Bushrod Washington (George Washington's nephew and a member of the U.S. Supreme Court), general and future president Andrew Jackson, lawyer Francis Scott Key, and senators Daniel Webster and Henry Clay organized the American Colonization Society, which proposed resettling freed slaves in Africa (Fox 1919; Bevan 1991; Smith 1993). With a $100,000 federal grant, the group acquired land in Africa (today's Liberia) and in 1820 began sending shiploads of emancipated slaves there. Over a period of twenty years, nearly three thousand settled in Liberia. The Colonization Society was an unusual alliance of southern slaveholders who feared the influence of free blacks on those still in bondage and northerners who opposed slavery on moral grounds. This accommodation, like the orderly process by which new states were admitted to the Union in a manner that preserved the political balance between free and slave states, would break down after 1831, when southerners, terrorized by the bloody Nat Turner slave rebellion, adopted harsh racial codes that made slavery even more oppressive than it had ever been.

The increasing oppressiveness of slavery as an institution and the growing political aggressiveness of slavery's defenders helped to push those who opposed slavery toward more extreme positions. While most opponents continued to favor gradual emancipation and colonization, a vocal activist element began agitating for immediate abolition. Organizations such as the American Anti-Slavery Society (AASS; founded in 1833) split into factions: conservatives formed the American Foreign and Domestic Anti-Slavery Society, while radicals retained control of the original organization. Under the leadership of journalist William Lloyd Garrison (1805–1879), the AASS flooded the country with mass mailings—to the point that Congress attempted to enact legislation forbidding the mailing of antislavery literature. The polarization of political positions on slavery led to the breakup of the major national religious denominations and such ecumenical organizations as the American Tract Society.

Conflict over slavery produced both national and local organizations and stimulated philanthropic contributions to promote emancipation and aid emancipated slaves. The Underground Railroad, an informal network of abolitionists, helped escaped slaves find their way to free states and, after the enactment of the federal Fugitive Slave Act in 1850, to Canada. After the passage of the Kansas-Nebraska Act in 1854, which left the question of whether new states in the Nebraska Territory would be slave or free up to their inhabitants, both abolitionists and advocates of slavery donated money, guns, and supplies to groups willing to settle in these states and do battle for their particular causes. These terrorist gangs, led by such men as abolitionist John Brown (who was later hanged for leading a slave rebellion in Virginia) and slaveholder Charles W. Quantrill (who would lead Confederate guerilla bands during the Civil War), carried the possibilities of voluntary association to its furthest extremes, committing bloody crimes under the color of higher purposes.

The emergence of slavery as the central issue in American politics helped to nationalize public life, shifting power to national associations, national political organizations, and publications that commanded national audiences. This helped other reform issues to command national attention and to elicit action by the federal government. Among the more notable of these was the movement for more humane treatment of the insane, led by New Englander Dorothea Dix (1802–1887; Marshall 1937; Wilson 1975; Snyder 1975). After leading successful crusades in several states, in the

late 1840s Dix began lobbying Congress to appropriate federal funds for the purpose. In 1854, Congress passed a bill authorizing the appropriation of more than twelve million acres of federal lands for the benefit of the insane, blind, deaf, and dumb. But when it reached the desk of President Franklin Pierce, he vetoed it, declaring, "I can not find any authority in the Constitution for making the Federal Government the great almoner of public charity throughout the United States" (Pierce 1854). The "Pierce Veto," as it is known to historians of social welfare, expressed a conservative view of federal powers and responsibilities that would generally characterize federal involvement with welfare issues until the twentieth century.

In 1828, British aristocrat James Smithson's half-million-dollar bequest to the federal government for the establishment of an institution "for the increase and diffusion of knowledge among men" elicited a protracted debate that similarly reflected political leaders' uncertainty about the power of the federal government. The bequest was bitterly attacked by southern congressmen, who doubted that the federal government had the legal capacity either to receive the bequest or to establish such an institution. At the same time, the bequest was enthusiastically supported by those who believed that the federal government should actively promote economic growth and saw a national institution devoted to scientific research as a potentially important stimulus to development. It took nearly two decades for Congress to decide what to do with the bequest (Rhees 1859; Goode 1897).

Although slow to expand its own role, the federal government was extraordinarily effective in creating conditions favorable to the growth of nongovernmental activity. The reorganization of the postal system in the 1840s created a cheap and efficient means for Americans and the voluntary associations they were busily creating to communicate with one another and to spread word about their causes. Federal authority over interstate commerce improved navigation and transportation, which helped Americans and their ideas move rapidly into national circulation. Americans committed to social reform and religious evangelism took advantage of the new infrastructure to create associations that transcended state and local boundaries—and that were, in their federated structures, modeled on the national government (Skocpol 1999b).

Evangelical Protestants, especially those with New England roots, were particularly aggressive in taking advantage of cultural and commercial opportunities to promote nationalist agendas. Their embrace of nationalism was a product both of religious ideology—which led them to view the settlement of North America as a divinely mandated "errand into the wilderness"—and of demography—particularly the extraordinarily high level of migration from New England's unproductive and crowded farmlands to the rich lands of the South and West.

By the 1840s, a flood of immigrants from Germany and Ireland broadened the range of voluntary and philanthropic endeavors. German immigrants brought with them their own associational traditions, founding athletic, musical, and social organizations wherever they settled, which helped to maintain their common culture. The Irish were less associationally active because of the Catholic Church's hostility toward associations over which it had no direct control. This was in part a consequence of its effort to affirm ecclesiastical authority over the laity, who in the absence of a North American bishop had established early Catholic congregations in the United States, supporting them with voluntary donations and hiring and firing priests—much as their Protestant counterparts did. With the appointment of an American bishop, the church began cracking down on "laymen acting in church affairs on their own initiative, abetted by vagrant priests who had no regard for ecclesiastical authority" (Ellis 1987, 2:160). Because it took thirty years and a series of highly publicized and acrimonious lawsuits for the hierarchy to suppress "lay trusteeism," the church was reluctant to sanction organizations that might rekindle sentiments of religious independence. Catholics were forbidden to join secret associations (such as the Freemasons) and, though the church tolerated the establishment of Catholic temperance, patriotic, and devotional societies, their role in the growth of American associational and philanthropic activity would remain overshadowed by Protestant initiatives until the twentieth century. Despite these strictures, the church itself—through schools, hospitals, orphanages, and other charities run by religious orders and the dioceses—assumed an enormously important role in American social welfare, particularly in the cities where the Catholic population was concentrated (Dolan 1985, 1987; Oates 1995).

Elites, Philanthropy, and Voluntary Associations

In the decades leading up to the Civil War, the educated elites felt increasingly isolated and powerless as they confronted the growth of immigrant populations, the rise of corrupt urban political machines, and the penetration of market values into every aspect of American life. The disestablishment of religion had diminished the authority of the clergy, as Americans felt free to worship as they pleased—or not worship at all. Physicians and lawyers who had struggled (with some success) in the early years of the century to restrict admission into their professions to educated and credentialed practitioners found their efforts undone by Jacksonian legislatures, which placed them in competition with quacks of every description and with ambitious young men, trained as apprentices, who succeeded in persuading increasingly politicized judges to admit them to the bar. Though it would be decades before businessmen would begin to think of themselves as professionals, those allied with established elites worried about the turbulence occasioned by unscrupulous and speculative business practices (see Chandler 1952).

While associational action could never fully restore the authority of professional and commercial elites, it could afford them a measure of public stature by reorganizing the market for their services. In addition to establishing private

hospitals, the professional elites organized these hospitals as charitable institutions (which clearly set them apart from the proprietary hospitals), associated them with university-based medical schools, and restricted ward privileges to holders of medical degrees, thereby creating enclaves of practice protected from market forces. The stature of these enclaves was enhanced as university-affiliated hospitals, such as Massachusetts General Hospital, were able to claim credit for scientifically based medical advances, such as anesthesia and asepsis, and were able to expand their influence through medical journals. Although wealthy laymen increasingly dominated the governing boards of benevolent institutions, the continuing presence and involvement of clergy helped to distinguish clerical leaders from the mass of preachers—and these leaders were also active in establishing new specifically church-oriented organizations, ranging from schools of theology to publishing ventures and domestic and foreign missions (Scott 1978; Cherry 1996). Businessmen created credit reporting agencies which assessed creditworthiness not only in commercial terms but in moral and political ones.

During the Civil War, elites performed heroically not only on the battlefield but in support roles. The centerpiece of their efforts was the U.S. Sanitary Commission, a privately funded national federation that assumed responsibility for public health and relief measures on the battlefield and in military encampments (Frederickson 1965). Rigorously professional and relentlessly bureaucratic, the commission sought to replace politics and sentimentality with disinterested, science-based expertise (Giesberg 2000). Through its local chapters, which raised funds and produced medical supplies, the commission also helped to maintain public enthusiasm for wartime policies. Just as the officer corps proved to be an invaluable training ground for men who took leading roles in managing the large firms that dominated the national economy after the war, so the Sanitary Commission produced cadres of experts to take the lead in helping to reform and reorganize the public welfare system in the postwar decades. Their unsentimental approach to suffering, which included focusing on its causes rather than its alleviation, would give rise to a revolution in American social welfare, under the banners of "charity organization" and "scientific philanthropy" (Watson 1922; Katz 1996).

The older diversity of institutional traditions did not simply disappear in the face of such innovative and powerful organizations as the Sanitary Commission. Throughout the war, the commission's efforts were vehemently opposed by the U.S. Christian Commission, an evangelically oriented organization that placed individual spirituality and the relief of individual suffering ahead of utilitarian considerations of efficiency and effectiveness (Moss 1868). Where the Sanitary Commission was concerned with solving problems, the Christian Commission was concerned with helping people. Where the Sanitary Commission focused on the worthiness of relief recipients, the Christian Commission focused on need. Where the Sanitary Commission used professionals and experts to provide services, the Christian Commission recruited well-intentioned volunteers to relieve suffering. The two approaches would clash repeatedly both during the war and after, as veterans of the two groups became involved in the effort to "reconstruct" the devastated South and, later, in initiatives to address poverty in the nation's growing cities.

Reconstruction, Racism, and the Transformation of Voluntarism

Reconstruction was the most ambitious government initiative to be undertaken by the federal government before the New Deal of the 1930s (Fleming 1906). Not only did the South's economy and infrastructure lie in ruins, but millions of emancipated slaves—jobless, landless, and uneducated—had to be integrated into a new political and economic system based on free labor and universal civil rights (DuBois 1935). The task was entrusted to the Freedmen's Bureau under the authority of General Oliver Otis Howard (1830–1909), a religiously devout Maine-born former abolitionist (McFeely 1968). As custodian of the land and financial assets confiscated from defeated rebels, the bureau had vast resources to bring to the task (Pierce 1904). What it lacked was personnel with the ability to teach former slaves to read and write, to support themselves, and to effectively exercise their political rights.

As an evangelical with years of experience in the voluntary associations these Protestants used to advance their reform agendas, Howard understood the possibilities of a voluntary workforce. He invited northern volunteers (dubbed "Gideonites") to work with the Freedmen's Bureau to carry out its policies (Swint 1967). As the Gideonites poured into the South, the profound differences between those who embraced traditional, religiously grounded conceptions of charity and those who favored more utilitarian approaches became evident. The latter, many of whom had worked with the Sanitary Commission during the war, saw Reconstruction as an opportunity to reorganize the conquered South as an open, multiracial, religiously diverse New England–style civil society (Butchart 1980; Richardson 1986). The former, identified with the Christian Commission, viewed the economic and educational aspects of Reconstruction as subsidiary to the opportunities it afforded to proselytize.

Reconstruction would eventually fail, falling victim to resistance by white southerners (who used voluntary associations such as the Ku Klux Klan to murder and terrorize free blacks), bickering among the volunteer workforce of the Freedmen's Bureau, and the political opportunism of northern politicians who were more interested in the votes of southern whites than in fundamental social and economic reform (Chalmers 1987). After the end of military government in the South in 1876, blacks were quickly pushed out of public life and, in many instances, into plantation peonage. Racial segregation was established by state and federal law, and the exclusion of blacks from public facilities, from schools, and from exercising their political rights was enforced by lynch law. Between the end of the Civil War and

the start of World War I, thousands of black men, women, and children were brutally murdered by southern mobs, often with the enthusiastic complicity of public authorities (Dray 2002).

Fleeing the South, hundreds of thousands of blacks moved to northern cities, beginning as a trickle but becoming a flood by the 1920s. In northern cities, urban blacks would create vital communities rich in churches, voluntary associations, and charitable institutions (Giddings 1988; Higginbotham 1993; Gamble 1995; Reed 1997; Cash 2001). Although they suffered discrimination, northern blacks were generally not excluded from politics. By the early twentieth century, black communities were electing their own leaders to municipal and state offices and were joining forces with white humanitarians to fight racism through such national advocacy groups as the National Association for the Advancement of Colored People (NAACP), organized in 1909.

The failure of Reconstruction and the brutal political and economic repression of blacks in both the North and the South proved to be a powerful impetus for voluntary and philanthropic responses among Americans who still embraced democratic values. The earliest foundations—the Peabody Fund (1868), the John F. Slater Fund (1882), and the General Education Board (1903)—would be created by wealthy northern philanthropists to provide education to free blacks (Curry 1898; Curti and Nash 1965; Anderson 1999). A variety of activist groups arose to oppose lynching, to defend the civil rights of blacks, and to call international attention to the racial situation in the United States (Dray 2002). A group of southern institutions—Howard University, the Tuskegee Institute, Fisk University, and others—would not only enjoy the continuing support of northern donors but also work energetically to promote racial understanding through fund-raising tours of musical groups, such as the Fisk Jubilee Singers (Ward 2000).

The rise of racism in America after the Civil War promoted the expansion of black churches. Barred from the mainstream of economic and political life, black people turned to the church for solace and consolation. Church also offered opportunities for community building and civic engagement, and one of the few avenues of professional advancement available to ambitious blacks (Lincoln and Mamiya 1990). Although generally not politically active as institutions, black churches often served as platforms for political initiatives, and black clergies would prove to be reliable sources of political leadership. The civil rights movement of the 1950s and 1960s would draw on these sources of strength.

The Institutional Response to Immigration and Urbanization

Post–Civil War racism was a component of a broader response by native-born whites to deep changes in American life in the decades between the Civil War and 1920. In response to opportunities created by industrialization and to economic conditions and political and religious repression in their homelands, the flood of immigration that had begun in the 1830s continued unabated. The Germans and Irish who had predominated before the war were joined by Italians and Eastern Europeans. By 1890 in many cities, native-born citizens were actually in the minority.

It was not the mere demographic presence of the foreign-born that so alarmed native-born Americans. It was their increasingly powerful political and institutional presence. In many cities, political machines based on patronage and the votes of the foreign-born dominated municipal life and gave rise to extraordinary levels of political corruption. With swelling numbers of adherents, the Roman Catholic Church became an enormously important institutional presence, not only erecting impressive church edifices but also building parochial schools, hospitals, and social welfare institutions that demanded and in many places received significant government support (Dolan 1985, 1987; Oates, 1995).

Perhaps more disturbing was the growing Jewish presence. Whereas Catholics challenged native-born Protestants institutionally and politically, Jews challenged them as competitors on their own ground—in higher education, commerce, and their professions. By the turn of the century, the elite private universities were limiting the admission of Jews and Catholics and such professions as law and medicine were raising educational standards for admission to the bar and to hospital privileges in order to exclude non-Protestants (Oren 2001; Auerbach 1976). In response to the rise of institutional anti-Semitism, Jews established their own philanthropies, hospitals, social agencies, and clubs (Morris and Freund 1966; Linenthal 1990; Soyer 1997).

The impact of these changes on Protestants was dramatic. Despite their differences over Reconstruction and urban charity, they drew together to form a united front against the immigrants. Led by such nondenominational evangelists as Dwight L. Moody (1837–1899), huge revival meetings were held in cities across the country. New federated Protestant organizations such as the Christian Workers established chapters in cities and towns throughout the United States and Canada (Butler 1997). Moody himself was an active institution builder who founded the Northfield–Mt. Hermon School (a leading private boarding school) and Chicago's Moody Church and Moody Bible Institute.

Among the most important outcomes of this Protestant/nativist revival was a powerful effort to reform urban charities led by Protestant clergy and laity (Gurteen 1882; Watson 1922). Based on practices originally developed in Scotland in the 1860s and 1870s, the charity reform movement sought to systematize and render more efficient and effective poor relief by eliminating "mendacity" (claims for relief by the undeserving), duplication of services, and political influence on the distribution of charity. These professed high purposes actually masked a more sinister agenda. The charity reformers sought to register all applicants for poor relief, oversee their activities, and, whenever possible, ensure that no relief was given unless in exchange for work. Eliminating all forms of publicly provided relief—in order to cut the tie between relief and patronage and thus to break the political

power of the urban bosses—was high on the charity reformers' list of priorities. From its start in Buffalo in 1879, the movement spread rapidly. By 1890 charity reform organizations were operating in two dozen American cities (National Conference 1881).

Charity reformers worked closely with other Protestant political and social reformers in taking on urban political machines and advocating for civil service systems locally and nationally. The temperance and prohibition movements were revived during this period and now focused less on the inherent evils of alcohol than on the problem of the saloon as the chief social and political center of immigrant communities. The reformers also worked with groups urging compulsory school attendance (as a way of "Americanizing" immigrants' children) and child labor laws (to remove children from parental control and place them in settings where they could be subjected to proper influences; Pozzetta 1991).

The harsh methods of the charity reformers generated resistance not only in the ethnic communities toward which they directed their efforts but also among many Protestants. In the late 1880s, Jane Addams (1860–1935) and other Americans who had spent time at London's Toynbee Hall, a Christian community of middle-class students and professionals located in the city's slums, brought back an alternative method of addressing urban poverty—the settlement house (Addams 1938; Davis 1984; Linn 2000; Elshtain 2002). At the same time, from within Protestant ranks, preachers such as Nebraska Congregationalist Charles Sheldon (1857–1946) challenged their congregations to address the problem of poverty as Christians. "What would Jesus do in solving the problems of political social and economic life?" Sheldon asked in his best-selling novel *In His Steps* (1899).

By the 1890s, a sufficient number of Americans were devoting themselves to problems of poverty and dependency as a full-time occupation to dispel many of the myths and class-interested assertions about the causes of poverty and the ways in which social welfare policy and practice could address them (Warner 1894; Lubove 1965; Chambers 1963; Bremner 1991). As this happened the focus of charity began to shift from reforming the morals of the poor to changing the conditions that created poverty. The founding of the National Conference of Charities and Correction in 1892 marked the emergence of a growing cadre of secular social welfare professionals and the development of academic social sciences addressing pressing public problems.

Despite this, religion remained an important element in the private provision of social services (Huggins 1971; Smith-Rosenberg 1971; Hopkins 1982). The Salvation Army, an evangelical group founded in England, established rescue missions throughout the United States in the last years of the nineteenth century (Winston 1999). By the early years of the twentieth century, seminaries and divinity schools were training students in social ministry and in the beliefs associated with the "social gospel." Religiously based organizations such as Phillips Brooks House at Harvard and Dwight Hall at Yale sent students out into the community to work with public and private social agencies, while urban churches expanded their social ministries to serve the poor.

Women proved to be an important element in the new activism that emerged between the wars. Increasingly well-educated but deprived of opportunities for careers in most fields, many middle-class women found outlets for their energies in reformist activism of many kinds (Scott 1991; Waugh 1997). Inspired by the antislavery movement, some women worked to promote political equality for women (Minkoff 1995; Murolo 1997). Others became active in moral reform causes. The Women's Christian Temperance Union, founded in 1874, commanded the loyalty of more than a million members by the beginning of the twentieth century. The organizational and advocacy efforts of women resulted in the enactment of the Eighteenth Amendment (prohibition) and Nineteenth Amendment (women's suffrage) to the U.S. Constitution. Their success was testament to the growing political power of special interest groups working through nationally federated associations.

Associational activism helped to open new career paths for women. Nursing, social work, teaching, and other careers in the "helping professions" were more likely to flourish in nonprofit settings, where women often sat on governing boards and held staff positions, than in business or government, which continued to be male dominated (McCarthy 1982, 1991).

All of these forces played a role in the creation of one of the earliest modern foundations, the Russell Sage Foundation. It was founded in 1907 on a gift of $10 million from Margaret Olivia Sage (1828–1918), the widow of financier Russell Sage, "for the improvement of social and living conditions in the United States of America" (see Glenn, Brandt, and Andrews 1947; Hammack and Wheeler 1994; and Crocker 2002). The foundation, she instructed, "should preferably not undertake to do that which is now being done or is likely to be effectively done by other individuals or by other agencies. It should be its aim to take up the larger and more difficult problems, and to take them up so far as possible in such a manner as to secure co-operation and aid in their solution" (Sage 1907).

Sage's gift, in a very real way, brought together all the strands of American philanthropy and voluntarism as it had developed since the early nineteenth century. A product of a New England evangelical household, she had been educated at Emma Willard's Troy Female Seminary, an evangelical institution. At her graduation in 1847, she presented an oration on those "who spend their wealth in deeds of charity" (Crocker 2002:202). Sage was involved in the whole range of post–Civil War urban reform movements: she was an active supporter of religious causes, and she served on the board of the New York Women's Hospital and the New York Gospel Mission, as well as the New York Exchange for Women's Work and the Women's Municipal League, "a political organization that aimed to unseat Tammany and bring more women into public life" (Crocker 2002:201). She was deeply involved in charity reform movement activities and

was a generous benefactor of such Protestant groups as the YMCA and the Women's Seamen's Friend Society.

The Russell Sage Foundation anticipated both the think tanks and the grant-making foundations that would become so central to the modern American state. Its importance as a policy research institution cannot be underestimated. Such projects as the Pittsburgh Survey (1909–1914), which reviewed conditions of work and life among that city's working class, set standards for careful and thorough empirical social research as a basis for philanthropic and government action. The foundation also did pioneering work on living costs that became the basis for government policies. Most important, the foundation's programs signaled a shift toward a genuinely scientific philanthropy directed to identifying and solving the root causes of social problems rather than treating their symptoms.

The Rise of the Private Research University

Central to the transformation of American institutional life between the Civil War and World War I was the development of the private research university (Geiger 1986; Graham and Diamond 1997). It became the most important locus of basic research in the social, life, and physical sciences, and the chief source of the experts, professionals, and executives who staffed the corporate and government bureaucracies that would be the distinguishing feature of twentieth-century life.

The American research university was not an imitation of foreign models nor was it modeled on its institutional predecessor, the sectarian college. Intentionally crafted to serve the needs of a people engaged in nation building and a rapidly growing industrial economy, it was distinctively secular in orientation, independent of government in ways the earlier colleges had not been, and dependent on the wealth of the new industrial elite. The private research university was a capitalist institution in every sense of the word: it sought to amass *intellectual capital,* by hiring faculty internationally and making huge investments in the libraries, museums, and laboratories essential to carrying out pathbreaking research; *financial capital,* through aggressive fund-raising, adroit financial management, and the systematic cultivation of relationships with the nation's wealthiest men; and *human capital,* by issuing degrees that were nationally and internationally recognized and nurturing continuing relationships among alumni after graduation. Perhaps most important of all, the private research university sought to create *institutional capital,* by placing itself in the center of a network of powerful entities essential to national economic, political, social, and cultural integration.

No individual was more responsible for the creation of the private research university than Charles W. Eliot (1834–1926), the young president of Harvard who, in 1869, proclaimed that the nation was "fighting a wilderness, moral and physical" that could be conquered only if Americans were trained and armed for battle by private institutions (Eliot 1869:203). Eliot had little patience for traditional forms of politics or voluntarist sentimentality. "As a people," he declared in his inaugural address, "we have but a halting faith in special training for high professional employments. The vulgar conceit that a Yankee can turn his hand to anything we insensibly carry into high places where it is preposterous and criminal. . . . Only after years of the bitterest experience, did we come to believe the professional training of a soldier to be of value in war" (Eliot 1898:12). Combining postwar elite triumphalism with new social ideas extrapolated from Darwinism, Eliot reconceptualized the role of elites from social groups whose authority was grounded in tradition to functional elites whose authority was based on public-serving scientific expertise.

Having spent the war years abroad studying European educational systems and their relation to economic development, Eliot added to these social ideas a keen appreciation for the relationship between specialization and the achievement of large-scale collective tasks. "The civilization of a people may be inferred from the variety of its tools," he declared in his inaugural address. "There are thousands of years between the stone hatchet and the machine shop. As tools multiply, each is more ingeniously adapted to its own exclusive purpose. So with the men that make the State. For the individual, concentration, and the highest development of his own peculiar faculty, is the only prudence. But for the State, it is variety, not uniformity, of intellectual product, which is needful" (Eliot 1898:12–13). Eliot's ideas made sense to the business elite, whom the war had awakened to the possibilities of production and marketing on a hitherto unimaginable scale. With their generous backing, Eliot set about the task of transforming Harvard College into America's first great research university—an institution that both nurtured every domain of knowledge, from the physical and social sciences to literature and philosophy, and sought to recruit its students nationally and its scholars internationally (Buck 1965; Hawkins 1972).

In the years between 1870 and 1920, business wealth poured into Harvard and other private universities, including a host of new institutions—Cornell (1865), Johns Hopkins (1876), Stanford (1891), and the University of Chicago (1891). Public institutions, particularly the universities of Michigan, Wisconsin, and California, emulated the private university model, though they would not be able to fully realize their possibilities until after World War II, when the federal government began providing significant financial aid to higher education (Geiger 1993).

In the closing years of the nineteenth century, higher education institutions became embedded in an increasingly dense and complex network of organizations including business corporations, charitable and cultural institutions dependent on them for technology and expertise, professional and scholarly societies and book and periodical publishers that disseminated the scholarship of their faculties, and trade associations and groups advocating social and economic reform that translated scholarship into policy.

The increasing absorption of higher education by big business was not unopposed. When New York businessmen

and professionals tried to wrest control of Yale from the Connecticut Congregational clergymen who had governed it for nearly two centuries, the clergy fought back with compelling critiques of the shortcomings of the market mentality, especially as applied to higher learning (Porter 1870; Veblen 1918). But the clergy and other opponents—notably the defenders of the "genteel culture"—could do no more than delay the inevitable. Temporarily thwarted, Yale's business alumni withheld their contributions until 1899, when the corporation finally elected a railroad economist as president and placed the university's future in the hands of the avatars of the New York Central Railroad and the Standard Oil Company (Hall 2000).

The ascendancy of business in politics, society, and culture at the end of the nineteenth century was not a simple matter of heavy-handed conquest. The business leaders of the Gilded Age of the 1870s, many of them rough-hewn, self-made men, were being replaced by young men who had university educations, who identified with the nationalist and bureaucratic ideals articulated by Eliot and others, and who were enthusiastic participants in the dense networks of professional, political, and social associations. Herbert Croly (1869–1930), a member of the Harvard class of 1889 and author of *The Promise of American Life* (1909), a volume generally regarded as the bible of the progressive movement, spoke for the new generation of American leaders when he declared that an individual who "makes himself a better instrument for the practice of some serviceable art" could "scarcely avoid becoming also a better instrument for the fulfillment of the American national Promise" (Levy 1985). Such individuals would, "in the service of their fellow-countrymen . . . reorganize their country's economic, political, and social institutions and ideas" (Croly 1909:438–439).

Why were key members of the older generation of business individualists—such as Carnegie, Morgan, and Rockefeller—willing to make way for a new generation of university-trained professionals and managers who were far more collectivist in their orientation? If Andrew Carnegie (1835–1919), perhaps the most articulate business leader of his time, can be believed, it stemmed from their recognition that the conditions that had made it possible for them to accumulate their fortunes would, if unchecked, lead to the destruction of the capitalist system itself. Saving capitalism would require changing it.

Viewing the labor violence of the mid-1880s through the lenses of social Darwinism, Carnegie came to believe that inequality was the inevitable concomitant of industrial progress (Carnegie 1886a, 1886b). Vast enterprises required "men with a genius for affairs" to organize them, men who would inevitably wield more power and reap greater rewards than the mass of employees who labored in them. As a man of humble origins, Carnegie did not believe that the "genius for affairs" that created great fortunes was likely to be passed on to the heirs of men like himself, and he worried that large inherited fortunes would "sap the root of enterprise", curtailing opportunities for the talented and industrious on whom dynamic capitalism depended (Carnegie 1889:645).

In 1889, Carnegie published an essay on wealth, in which he endeavored to reconcile the inequality resulting from industrial progress with equality needed for continuing social and economic progress. He urged his fellow millionaires to use the same genius for affairs that they had used in building their enterprises to distribute their fortunes. Traditional charity would not suffice because it merely encouraged "the slothful, the drunken, and the unworthy." Instead, Carnegie argued that "the best means of benefiting the community is to place within its reach the ladders on which the aspiring can rise"—in effect, replacing traditional equality of condition with equality of opportunity. Carnegie went well beyond encouraging his wealthy counterparts to administer their wealth wisely as stewards for the progress of the human race; he urged that those who failed to do so should be subject to confiscatory estate taxation that would forcibly redistribute private fortunes.

Carnegie offered his readers a long list of worthy objects for their generosity, but as originally formulated the roster still enumerated conventional institutions—libraries, churches, parks, museums, and universities. By the turn of the century, he and his contemporaries were beginning to think more boldly, envisioning an entirely new kind of charitable vehicle—the grant-making foundation, a permanent endowment with broad purposes (such as the "good of mankind") administered by experts.

The Modernization of Charities Law and the Emergence of Grant-Making Foundations

There were formidable legal and political obstacles to the creation of such institutions. New York State, where America's greatest fortunes were increasingly concentrated, had shown a pronounced hostility to private philanthropy. In the late 1880s, a major bequest to Cornell was held invalid on grounds that it exceeded the amount of property the university was permitted to hold by its charter, and a multimillion dollar bequest by former presidential candidate Samuel Tilden for charitable purposes to be determined by his trustees was held invalid on technical grounds (*Cornell University v. Fiske* 1890; *Tilden v. Green* 1891). With organized labor and farmers uniting under the banner of populism to demand an income tax and government control of the banks and railroads, the political climate for the creation of foundations in the 1890s was insalubrious. Working behind the scenes, legal scholars, reformers, and the benevolently wealthy waged a successful campaign to liberalize New York's charity laws, with counterparts in other industrial urban states ("American Millionaires" 1893; Stead 1893; Ames 1913; Katz, Sullivan, and Beach 1985; Hall and Marcus 1998).

The defeat of populism and the rise of political progressivism in both Republican and Democratic parties in the

new century created new opportunities for innovative philanthropists, who could now link their benevolence to reformist causes. The first modern grant-making foundations were all chartered in New York, both because it was the nation's economic center and because its laws were particularly friendly to innovative philanthropy. In the first eleven years of the century, Carnegie established three foundations—the Foundation for the Advancement of Teaching (1905), the Endowment for International Peace (1910), and the Carnegie Corporation of New York (1911)—that were progressively more open-ended in intention and in the discretion granted their trustees (Lagemann 1992a, 1992b). The first genuinely modern foundation, which combined grant making with active involvement in the fields it proposed to subsidize, was the Russell Sage Foundation established in 1907. John D. Rockefeller (1839–1937), by then the wealthiest American, moved from narrowly focused educational (University of Chicago, Baptist Education Society), medical (Rockefeller Medical Institute), and religious philanthropy to more broad-ranging initiatives such as the General Education Board (1905), which helped to underwrite the modernization of higher education and provide support for black colleges and universities (Fosdick 1952, 1962; Corner 1964; Brown 1979; Ettling 1981; Jonas 1989).

While this kind of large-scale benevolence helped Americans accept the idea that wealth could be something other than predatory and self-serving, the furor that greeted Rockefeller's effort to obtain a congressional charter for a $100 million open-ended grant-making foundation—whose mandate was "to promote the well being of mankind"—suggested that Americans' hostility toward large institutions and their creators had not been entirely dispelled. In spite of his close ties to big business, Progressive presidential candidate Theodore Roosevelt opposed the effort, claiming that "no amount of charity in spending such fortunes [as Rockefeller's] can compensate in any way for the misconduct in acquiring them." The conservative Republican candidate, William Howard Taft denounced the effort as "a bill to incorporate Mr. Rockefeller." Samuel Gompers, president of the American Federation of Labor, sneered that "the one thing that the world would gratefully accept from Mr. Rockefeller now would be the establishment of a great endowment of research and education to help other people see in time how they can keep from being like him" (Collier and Horowitz 1976:64). Nothing Rockefeller could do to counter charges that the foundation would serve his private interests—including an offer to make the appointment of the foundation's trustees subject to government approval—was sufficient to quell the uproar. The Rockefeller Foundation was eventually chartered by the New York legislature (see Gates 1977; Fosdick 1952; Harr and Johnson 1988; and Chernow 1998).

The new foundations, particularly Russell Sage and Rockefeller, were unusual not only in the broad discretion granted their trustees but also in their explicit goals of reforming social, economic, and political life. These lofty ends were to be achieved not by direct political action but by studying conditions, making findings available to influential citizens, and mobilizing public opinion to bring about change. This relationship between academic experts, professional bodies, business, and government would become the paradigm of a new kind of political process—one based on policy rather than partisan politics.

It was precisely this emerging relationship between industrial wealth and public life that underlay the 1910–1913 controversy over the chartering of the Rockefeller Foundation and the 1915–1916 hearings of the Senate Commission on Industrial Relations (U.S. Senate 1916). In a general sense, the fears of those who opposed the foundations were not ungrounded. The foundations, through their ability to channel huge amounts of money toward charitable objects at will, could have become major instruments through which "the interests" could influence public policy and the teaching and research agendas of colleges and universities (Laski 1930; Karl and Katz 1981, 1985, 1987; Stanfield 1985; Colwell 1993; Sealander 1997). But the fierce controversy over their existence served to make philanthropists extraordinarily cautious. While a few foundations, such as Russell Sage, the Brookings Institution (1916), and the Twentieth Century Fund (1919), would focus directly on public policy matters, most acted with greater circumspection, either by funding relatively noncontroversial activities such as health care and education or by indirectly influencing public policy through grants to such intermediary organizations as the National Research Council, the Social Science Research Council, the American Council of Learned Societies, and the National Bureau of Economic Research. Foundation grants to intermediary organizations and to universities had a profound impact on universities' research priorities and on the growth of new disciplines, particularly the social sciences (Fisher 1993). Foundation initiatives, such as the Carnegie Corporation–sponsored *Medical Education in the United States and Canada* (better known as the Flexner Report; Flexner 1910) helped to transform not only the training of physicians but the entire field of health care (Starr 1982; Wheatley 1988; Bonner 2002). In the 1940s, sociologist Gunnar Myrdal's Carnegie-funded study of American race relations, *An American Dilemma: The Negro Problem and Modern Democracy* (1944), helped call the attention of policy makers and the public to a central contradiction in American public life.

By the eve of World War I, a constellation of foundations, universities, policy-making bodies, and progressively tilted trade associations such as the National Industrial Conference Board were becoming the basis for a national "establishment" of progressive institutions and individuals. American entry into the war would mobilize this establishment, completing the economic, political, and cultural task of nation building. While subcultures, backwaters, and centers of resistance to the new order persisted—as events such as the Scopes trial and the resurgence of the Ku Klux Klan demonstrated—the new integrated, institutionally based bu-

reaucratic order emerged triumphant after the war to proclaim the birth of a new "business civilization."

WELFARE CAPITALISM, SCIENTIFIC MANAGEMENT, AND THE "ASSOCIATIVE STATE," 1920–1945

By the turn of the century, almost all Americans had embraced some version of the progressive ideal—the belief that defects of their economic, social, and political institutions could be remedied by the application of scientific principles, compassion, and expertise. Most, however, were averse to governmental solutions, though even for the most conservative, government had a legitimate and central role to play in public life. The period between the world wars was one in which virtually all major social actors strove to find ways of balancing the possibilities of free economic enterprise—which was seen as the ultimate source of innovation and general prosperity—against shared beliefs in democratic governance and economic justice. Philanthropically supported institutions would play key roles in both moderating the excesses of capitalism and at the same time expanding its reach into every aspect of public and private life (Cyphers 2002).

The belief that making economic, political, and social institutions more efficient would also make them more just was a central pillar of the progressive faith (Alchon 1985). This belief originated in the business community, not only in the thinking of such leaders as Carnegie, who justified improvements in working conditions on economic grounds, but in the writings of engineers who, as early as the 1880s, had begun studying and experimenting with the interrelationships of tools, materials, labor processes, compensation schemes, the organization of the workplace, productivity, and profitability. By the turn of the century, these engineer-economists had developed methods that increased efficiency and profitability and linked these with economic empowerment of the workforce. This encouraged the convergence of the professionalization of management and broader programs of political and social reform. Frederick Winslow Taylor (1856–1915) promoted the best known of these "scientific management" schemes (Taylor 1911; Kanigel 1997). Based on these ideas, progressive managers implemented ambitious "welfare capitalist" programs that provided workers with education, health, housing, and other services in order to boost their productivity and discourage them from joining unions (Brandes 1976; Brody 1980; Jacoby 1985).

Fordism: The Corporation as Social Enterprise

Pioneer automobile manufacturer Henry Ford (1863–1947) took these ideas a step further, using new assembly line techniques to reduce manufacturing costs and the prices of his products, while raising his employees' wages to enable them to purchase the products they produced. "Fordism" expanded the reach of the ideal of efficiency beyond the internal arrangements of the industrial plant into society itself: low-priced automobiles, credit purchasing, aggressive advertising, and a national distribution system based on dealer-owned franchises offered a paradigm for a self-sustaining economy based on consumer purchasing power. While Ford sneered at traditional kinds of philanthropy, his investments in product development and the welfare of his workers were sufficiently large to prompt a stockholder lawsuit in 1915, in which he was accused of diverting profits for humanitarian purposes instead of distributing them as dividends (Nevins 1957). Though Ford declared as his ambition a desire to "employ still more men, to spread the benefits of this industrial system to the greatest possible number, to help them build up their lives and their homes," the court, in a decision that would restrict corporate philanthropy for decades to come, ruled that because "a business corporation is organized and carried on primarily for the profit of the stockholders," companies could not legally divert profits in order to devote them to philanthropic purposes unrelated to the business (*Dodge v. Ford* 1919).

Despite such efforts to restrict social initiatives by business, many major corporations during the 1920s, guided by top executives who closely identified with the progressive social agenda, used compensation schemes, pricing, product lines, and advertising not only to provide goods and services but to transform society (see Loth 1958; Heald 1970; Sklar 1988). Before the war, these companies had produced expensive products primarily for other businesses. After the war, they shifted their efforts to building mass markets of households and individual consumers. Consumer-based markets offered not only opportunities for profits based on high-volume sales of relatively low-price products but also unparalleled opportunities for shaping consumer preferences in ways that brought efficiency into homes and communities (Ewen 1976). These firms invested not only in advertising but in education—underwriting the development of home economics and shop courses that familiarized millions with new products and domestic technologies (Rose 1995). In doing so, they were able to achieve many of the progressives' public health goals, since improved nutrition and sanitation required the domestic appliances and brand-name products they produced. At the same time their executives assumed leadership roles on the boards of grant-making foundations and universities, where they promoted the ideals of corporate citizenship.

Business leaders continued to press for changes that would permit more generous corporate contributions. In the mid-1930s, they successfully lobbied Congress to make corporate philanthropic contributions tax deductible. After World War II, a group of top corporate executives mounted a successful challenge to legal strictures on corporate contributions. In a 1952 test case involving a stockholder suit against a company's donation to Princeton University, the New Jersey Supreme Court was persuaded by the executives' argument that the survival of free enterprise depended on the vitality of charitable and educational institutions. The elimination of legal barriers, combined with an aggressive campaign to promote corporate philanthropy, led to the

emergence of company foundations and corporate contribution programs as a significant source of nonprofit revenues (*A. P. Smith Manufacturing Co. v. Barlow* 1952; Andrews 1952; Ruml 1952; Curti and Nash 1965; Hall 1989a; Himmelstein 1997).

Business and the Emergence of New Philanthropic Vehicles

The democratization of consumption was accompanied by the invention of new kinds of philanthropic organizations that encouraged middle- and working-class Americans to become more civically engaged. The Community Chest, invented by members of the Cleveland Chamber of Commerce, was a fund-raising mechanism that sought to make charitable fund-raising more efficient by preventing duplication of fund-raising appeals, ensuring that funds went to worthy organizations, broadening the donor base, and ensuring the alignment of charitable and business agendas (Seeley et al. 1957; Cutlip 1965; Brilliant 1990; Hutchinson 1996). (Today's United Way is a descendant of the Community Chest.) The community foundation, another Cleveland philanthropic innovation, also sought to democratize philanthropy by encouraging small donors to establish charitable trusts and to place them under common management (Hall 1989b; Hammack 1989; Magat 1989a, 1989b). Spearheading drives for hospitals, for the Red Cross, and for an assortment of national health charities, professional fund-raising firms applied business expertise, including hard-sell advertising techniques, to generate mass-based support for charitable enterprises. Taken together, these innovations represented a shift of organized charity away from the moralizing amateurism of the charity organization movement and toward business models and methods.

Because they were often dominated by Protestants, Catholics and Jews often resisted cooptation by these civic initiatives. Instead, they organized parallel federated fund-raising organizations (Catholic Charities, the United Jewish Appeal) to generate support for their own benevolent institutions (Oates 1995).

Business, Philanthropy, and the Associative State

Mobilization for World War I intensified cooperation between business, philanthropy, and government (Cuff 1973; Galambos and Pratt 1988). Even before American entry into the war, a privately supported preparedness movement was training elite businessmen and professionals as officers, while the Red Cross, the American Friends Service Committee, and other nongovernmental groups were operating ambulance corps to assist the British, Canadian, and French armies (Curti 1965; Clifford 1972). Once the United States entered the war, industrial production, transportation, food, finance, and other crucial domains were coordinated by quasi-public bodies staffed by volunteers from big businesses. The war provided the impetus for national fund-raising efforts: the Community Chest was transformed from a midwestern oddity into a national charitable force, while the Red Cross energetically solicited private corporations and individuals.

One of these "dollar-a-year" men, millionaire-businessman Herbert Hoover (1874–1964), both articulated the ideals of the progressive business civilization of the 1920s and helped to implement them during his terms as secretary of commerce under Harding and Coolidge and during his own presidency (Hawley 1974). Hoover's 1922 book *American Individualism* envisioned a society self-governed by dense networks of associations working in partnership with government to advance public welfare by combining the pursuit of profit with the higher values of cooperation and public service.

Hoover's efforts in the housing field embodied his conception of the possibilities of such an "associative state." After the end of World War I, Hoover used the Building and Housing Division of the Department of Commerce to address the problems of unemployment and substandard housing by stabilizing the construction industry, building new markets by overcoming resistance to mass production and standardization, fostering city planning and zoning activities, and promoting the "spiritual values" (and economic stimulus) inherent in widespread home ownership. To do this, the Housing Division worked through an organization known as Better Homes in America. Originally a promotional activity initiated by a household magazine, the *Deliniator,* Better Homes was reorganized as a public service corporation in 1923. Operating as a "collateral arm" of the Commerce Department, Better Homes "secured operating funds from private foundations, persuaded James Ford, a professor of social ethics at Harvard, to serve as executive director, and secured the enterprise's ties to the Housing Division by having directors of the agency serve as officers in the new nonprofit corporation." Working through some 3,600 local committees and a host of affiliated businesses, trade associations, and schools, Better Homes carried on massive advertising and educational campaigns "to provide exhibits of model homes, foster better 'household management,' promote research in the housing field, and generate a greater, steadier, and more discriminating demand for 'improved dwellings,' especially for families with 'small incomes'" (Hawley 1974:142–143). By 1932, Hoover boasted that these initiatives had led to the construction of 15 million "new and better homes" (Hoover 1938:7).

The impact of Hoover's associationalism was as much local as national. The national association form perfected by religious denominations and fraternal and sororal organizations was adapted to economic and political purposes through trade associations, service clubs (such as Rotary and Kiwanis), character-building groups (Boy Scouts), veterans' groups (American Legion), and professional societies (American Society of Civil Engineers) (Naylor 1921; Galambos 1966; Charles 1993; Macleod 1983; Murray 1937; Rumer 1990). From their national headquarters, local civic groups learned how to organize community chests and community foundations, and about city planning, education reform, and the benefits of organized recreation and leisure.

Hoover's promotion of voluntary associations as mechanisms for civic betterment rather than mutual benefit helped to transform Americans' attitudes toward nonprofit organizations and helped to socialize a generation of citizens—Robert Putnam's "long civic generation"—who gave, volunteered, and participated at unprecedented levels (Putnam 2000).

The New Deal and the Expansion of Public-Private Partnership

Though Hoover himself was discredited by his failure to deal effectively with the Great Depression, his ideas formed the basis for the first phase of the New Deal; the National Recovery Administration (NRA), the centerpiece of Franklin Roosevelt's 100 Days, was little more than a formalization of the cooperative relationships between business, charity, and government that Hoover had promoted during the 1920s (Himmelberg 1976). This is hardly surprising, given the dependence of Roosevelt's "brain trust" on private think tanks such as the Brookings Institution and on foundation-funded academic expertise (Critchlow 1985; Smith 1991a, 1991b; Rich 2004).

Intended to revive the economy through stimulating consumer demand, the NRA and other early New Deal programs were a continuation of older ideas of public-private partnership rather than bold statist initiatives. Unlike its economic management initiatives, the federal government's wholesale assumption of responsibility for social insurance—old age pensions, unemployment compensation, and disability payments—was a major departure from the past. While the federal government had provided for veterans, workers involved in interstate commerce, and certain other special classes of citizens, until the establishment of Social Security in 1935, social insurance had been largely a private enterprise, much of it provided through national fraternal and sororal organizations (Skocpol 1992; Beito 2000; Kaufman 2002). The New Deal did not entirely bypass private social insurance; its labor legislation, in strengthening the legal and political position of unions, established the basis for contracts that not only covered wages and working conditions but required employers to provide pensions, health insurance, and other benefits (Jacoby 1997).

The New Deal in its various phases never articulated a coherent or comprehensive program of economic management. It was, rather, a series of experiments and expedients—all predicated on the assumption that economic recovery would permit a reduction of government activism. It is important to recognize that government activism is not the same as "big government." Although Americans learned to look to the president and the federal government for leadership during the 1930s, Roosevelt preferred to work through state and local governments and private entities, rather than creating the kind of vast central state bureaucracies that were emerging in other advanced industrial nations. The NRA, for example, though a national program, was based on a decentralized system of code enforcement, and the Works Progress Administration (WPA), though it employed hundreds of thousands of people nationwide, was based on state and local organizations which poured millions of dollars into counties and municipalities. Roosevelt's expansion of tax preferences (such as the corporate charitable deduction) encouraged greater business support for private charities by permitting firms to use contributions to write down their tax liabilities. Further, by making taxation of personal income steeply progressive, he gave added impetus to charitable giving by the wealthy (Webber and Wildavsky 1986; Howard 1997).

While the Depression underscored the limited capacities of state and local governments, businesses, and private charities to deal effectively with widespread unemployment and social and economic dislocation, New Deal policies affirmed rather than diminished the importance of voluntary organizations and philanthropy. Not only did federal tax policies encourage private support for charitable institutions, but government at all levels depended on the private organizational infrastructure both for policy expertise and to provide services at the community level. In addition, the recognition of organized labor, mandated under the Wagner-Connery Act of 1935, helped to restore many of the welfare capitalist programs of the 1920s, as corporations negotiated agreements that included health and other social insurance benefits (Jacoby 1997).

Perhaps the most compelling evidence for the growing interdependence of public and private initiatives in this period is the vast number of buildings constructed by the Public Works Administration (PWA), which provided venues for the activities of nonprofit groups. The Civic Center in Hammond, Indiana, completed in 1938, included not only a 5,000-seat auditorium for performances and public programs but also offices and meeting spaces for "Boy and Girl Scout headquarters, camera clubs, practice rooms for drama, . . . and a complete layout for the activities of local teams and athletic clubs" (Short and Stanley-Brown 1939:93). In addition to municipal auditoriums and civic centers, the PWA built art and natural history museums, libraries, dormitories, stadiums, and classroom buildings for private colleges and universities.

THE WELFARE STATE AND THE INVENTION OF THE NONPROFIT SECTOR, 1945–2000

While many conservatives feared—and many liberals hoped—that the lessons of World War II would lead the nation toward the kind of social democratic regimes being embraced by Western European nations, the political and administrative foundations laid by the New Deal ensured that postwar policies would be devolutionary and privatizing rather than centralizing and collectivist. To be sure, American governments in the postwar decades faced unprecedented challenges: never before had the nation been required to bear sustained international responsibilities. As leader of the free world in a period of continuing international tension, the United States would have to be able to respond ef-

fectively to international crises. This would require capacities not only for military and economic mobilization but also for maintaining domestic economic and political stability (see U.S. Department of Commerce 1954:27–29).

Though there never seems to have been any comprehensive articulation of the form that the postwar polity would take, the writings of policy experts in and outside of government clearly identify national goals and the tools of economic and political management that would be needed to realize them. Two things proved to be crucial to realizing these goals: universal income taxation, enacted in 1943, which gave the federal government a virtually unlimited source of revenue, and innovations in public finance economics and systems for gathering and interpreting economic and social data that gave planners and policy makers a basis for developing fiscal practices consistent with government's enlarged role (Webber and Wildavsky 1986:453; see also Donahue 1989).

This transformation of the politics of public finance played a key role in fueling the proliferation of nonprofits, which became increasingly important both as providers of government-funded services and as advocates seeking to influence government policies. As the nation assumed its responsibilities as leader of the free world, the emphasis in budgeting and spending shifted from balancing revenues and expenditures (and other attempts to limit government spending) to meeting strategic and policy objectives. As Carolyn Webber and Aaron Wildavsky explain it, "The process of budgeting became introspective rather than critical. The question of 'How much?' was transmuted into 'What for?'" (1986:478). With the virtually unlimited revenues available through universalized income taxation and deficit spending (indeed, the government's borrowing capacity itself became an important economic management tool), budgeting ceased to be a zero-sum game in which one agency's gain was another's loss.

Despite increasingly sophisticated oversight capacities and the creation of new policy-making and monitoring bodies (the Council of Economic Advisors, the Office of Management and Budget), the budgetary process became less—rather than more—centralized. Because most federal policies were implemented not by the federal government itself but by an assortment of agencies that interfaced with the states, localities, and private sector actors that actually carried out these policies, each area of activity developed its own internal and external constituencies: agency officials pushing to expand their resources and prerogatives, congressional and other elected officials who stood to gain from spending and hiring by government agencies, and organized beneficiary groups—"special interests" operating as nonprofits—which lobbied Congress, contributed to electoral campaigns, mobilized voters, and sought to influence public opinion through advertising and journalism (Wildavksy 1992).

In the decades following World War II, federal social, tax, and spending policies transformed the overlapping domains of nonproprietary associational, charitable, and philanthropic entities. Steeply progressive taxes on personal income and estates, combined with high corporate tax rates, created powerful incentives for tax avoidance—incentives that could be engineered to direct the flow of private resources into state and local governments (via investments in tax-exempt bonds) and other areas in which the government was interested, such as cultural, educational, health, and welfare services. High estate and corporate taxation also provided incentives for the wealthy to establish foundations, which became major sources of funding for entities designated as charitable and tax-exempt by the government. Government further encouraged the growth and proliferation of nongovernmental, nonproprietary entities through direct and indirect subsidies, such as the Hill-Burton Act (1946), which provided funding for the expansion of public and nonprofit hospitals; grants from such bodies as the National Science Foundation and the National Institutes of Health, which flowed disproportionately to private institutions; and the G.I. Bill, which created a system of tuition vouchers that transformed American higher education.

Fueled by these incentives, the number of nonproprietary entities, charitable and noncharitable, began to grow dramatically: between 1939 and 1950, the number of fully or partially exempt entities more than doubled, and between 1950 and 1968, the number of charitable tax-exempts increased more than twentyfold, from 12,500 to more than a quarter million (table 2.1). While some of this growth can be accounted for by the conversion of proprietary entities into nonprofits, the vast majority were new establishments, more often than not firms established to take advantage of direct and indirect federal funding and to serve as private agencies for implementing government policies.

Nonprofits and Social Movements

As the United States assumed undisputed leadership of the free world after the Iron Curtain descended over Europe in the late 1940s, the policies of public and private institutions that subjugated racial and religious minorities and women became increasingly difficult to defend. Although the seniority of southern congressmen ensured that no significant civil rights legislation was enacted by the federal government until 1964, nonprofit advocacy groups, funded by foundations, worked tirelessly to change public opinion on civil rights issues and to pressure political leaders to change their votes.

One of the great legacies of twenty years of Democratic control of the White House and Congress was a liberal activist federal judiciary. Two significant legal innovations enacted by these jurists transformed litigation into an important instrument of policy making and turned nonprofits into major agents of policy change.

The first was the adoption of the doctrine of incorporation by the U.S. Supreme Court beginning in the late 1930s (Friedman 2002:203–207). The incorporation doctrine derives from the Fourteenth Amendment, which declares that no state can deprive a person of life, liberty, or property

TABLE 2.1. POPULATION OF CHARITABLE AND NONCHARITABLE NONPROFIT ORGANIZATIONS AND RELIGIOUS CONGREGATIONS, 1936–1996

Year	Total NPOs and congregations	Total NPOs	Noncharitables	Charitables	Congregations
1936					179,742
1939				12,500	
1943		80,250	62,800	17,450	
1946		93,458	65,958	27,500	
1950				32,000	
1967		309,000			
1968		358,000			
1969		416,000	278,000	138,000	
1972		535,000			
1973		630,000			
1974	1,005,000	673,000			332,000
1975		692,000			
1976		763,000	503,000	260,000	
1977	1,123,000	790,000	514,000	276,000	333,000
1978		810,000	516,000	294,000	
1979		825,000	521,000	304,000	
1980	1,182,000	846,000	526,000	320,000	336,000
1981		851,000	523,000	328,000	
1982		841,000	518,000	323,000	
1983		845,000	509,000	336,000	
1984	1,209,000	871,000	518,000	353,000	338,000
1985		887,000	521,000	366,000	
1986		897,424	409,817	487,183	
1987	1,285,105	939,105	416,354	522,751	346,000
1988	1,318,177	969,177	502,609	489,952	349,000
1989	1,343,561	992,561	502,432	490,129	351,000
1990		1,024,766	540,766	484,000	
1991		1,055,545	407,006	512,551	
1992	1,481,206	1,085,206	554,614	530,592	396,000
1993		1,118,131	575,162	542,969	
1994		1,138,598	616,598	522,000	
1995		1,164,789	604,732	560,057	
1996		1,188,510	615,245	573,265	

Source: Hall and Burke 2006.
Note: Blank cells indicate no available data.

without "due process of law." In a series of cases, the Supreme Court held that these words "incorporated" the Bill of Rights in such a way as to make them applicable to the states. This meant that states that routinely deprived nonwhites of rights guaranteed by the U.S. Constitution—such as the right to vote—were subject to the jurisdiction of the federal courts.

The second innovation was a change in the federal rules of civil procedure—the code that defines the kinds of legal action permissible in the federal courts. In 1966, the U.S. Supreme Court, which enacts these rules, changed the rule governing who had standing to initiate litigation to permit "claims by unorganized groups" to be presented "as if they were those of organizations" (Friedman 2002:255). The impact of this rules change was dramatic. As legal historian Lawrence Friedman writes, "Litigation in late-twentieth century America became a political and economic instrument, a tool, a locus for strategic behavior. The class action was an important way to involve courts in battles over civil rights, corporate governance, protecting the environment, and consumer protection. And class action is central in the society of 'local justice.' Class actions depend on quirks and accidents of procedural history and the peculiarities of the American legal order—many legal systems have no such beast as the class action at all. But the class action has long since transcended its origins. It grew fat on the fodder of twentieth-century culture" (Friedman 2002:255).

Civil rights organizations such as the NAACP were quick to recognize the opportunities offered by these changes. The NAACP's landmark 1954 litigation over school segregation in Topeka, Kansas, *Brown v. Board of Education,* was based on the ability of its litigators to persuade the court that separate educational facilities were inherently unequal and, as such, violated the Fourteenth Amendment, which guarantees all citizens "equal protection of the laws." This and other federal court decisions based on it compelled a reluctant federal government to initiate the process of intervening in states that excluded nonwhites from public schools, public transportation, restaurants, and other public accommodations.

Southern resistance to court-ordered desegregation gave rise to the civil rights movement of the 1950s and 1960s in which a variety of nonprofits—churches, advocacy organizations (the Southern Christian Leadership Conference, the NAACP, the Student Non-violent Coordinating Committee, and others), and foundations—worked together to mobilize

demonstrators and voters to fight segregation (Jenkins and Ekert 1986; Jenkins 1987). When the movement shifted its focus to northern practices of de facto segregation, resistance by political leaders grew, particularly among ethnic urban bosses whose power was undermined by drives to register black voters; it produced demands for the curtailment of political activities by nonprofits.

The logic and methods of constitutionalizing the civil disabilities associated with racial segregation were soon embraced by other groups—women, the physically and mentally disabled, the aged, and gays and lesbians (Lauritsen and Thorstad 1995; Berkeley 1999; Barnartt and Scotch 2001; Fleischer and Zames 2001; Marcus 2002; Minton 2002; Rimmerman 2002). Litigation and political action by these groups, organized as social movements through Washington-based nonprofits, transformed American politics in the second half of the twentieth century. Federal civil rights legislation of the 1960s addressed both racial and gender issues, challenging not only discriminatory state and municipal ordinances but also the practices of private institutions that excluded participation on the basis of race, gender, and religion. Suits challenging the treatment of the mentally disabled led to the court-ordered dismantling of state mental institutions and training schools and the rise of a huge government-funded nonprofit group home industry (Rothman and Rothman 1984). Rights-oriented and class action litigation launched by national nonprofit groups changed public opinion and public policy regarding consumer safety, the environment, smoking, drunken driving, child abuse, and other issues. These kinds of advocacy-oriented social movement activity made nonprofits an increasingly central part of political life.

Tax Reform

Between 1947 and 1954, Congress labored to introduce some order into a tax system that had become a patchwork of amendments since it was originally enacted in 1916 (U.S. House of Representatives 1948; Seidman 1954; Feingold 1960; Internal Revenue Service 1963; "Macaroni Monopoly" 1968; Gilbert 1983; Witte 1985). An important part of this effort was a rationalization of the tax and regulatory treatment of exempt entities. Under the original Internal Revenue Code, exempt entities had been covered by a catchall category, section 101, which included everything from foundations and fraternal orders through mutual savings banks and insurance companies. After protracted inquiries into exempt entities, including two high-profile congressional investigations of the political inclinations of "foundations and other tax-exempt entities," tax writers forged section 501(c) as part of the 1954 Internal Revenue Code. Section 501(c) promulgated an elaborate classificatory scheme that accorded different kinds of tax privileges and degrees of regulatory oversight to the various types of nonproprietary entities (U.S. House of Representatives 1953a, 1953b, 1954).

What Congress had done, in effect, was to bring together the various types of nonproprietary entities—nonstock and mutual benefit corporations, charitable trusts, voluntary associations, cooperatives—and place them in a common regulatory framework. The IRS code and its regulatory provisions transformed individual and corporate charitable giving into a tax-driven activity, with gifts and bequests carefully calculated to provide donors with the greatest possible financial benefits. When John D. Rockefeller gave $100 million to establish the Rockefeller Foundation in 1913, he derived no financial benefit from the transaction. In contrast, when Henry Ford established the Ford Foundation as part of his estate plan, his family was able to transfer ownership of one of the nation's largest industrial enterprises and private fortunes from one generation to another without paying any significant estate taxes (MacDonald 1956). In the decades after the enactment of postwar tax reforms, lawyers, accountants, and consultants specializing in estate and tax planning flourished. Tax reforms, combined with direct and indirect government subsidies, also impacted organizations that stood to benefit from the increased scope, scale, and focus of philanthropic giving. In industries such as health care and education, proprietary entities rushed to convert to nonprofit ownership (see, for example, Friedman 1990:158–166).

As nonprofits became increasingly favored as recipients of direct and indirect subsidies, they took on increasingly active roles in formulating and advocating particular policies (Jenkins and Halcli 1999). Advocacy activities that in the past would have been carried on through trade associations now came to be the province of national mass membership associations with 501(c)(3) status (such as the National Audubon Society, the Sierra Club, and the American Association of Retired Persons; see Putnam 2000). Not only did charitable tax-exempt status cloak the causes these entities promoted in an aura of disinterested public service, but also, because donations to them were deductible, it made them attractive to foundations, corporations, and individual donors large and small. Though classed as membership organizations, these new entities little resembled the national associations of the prewar decades (fraternal and sororal, veterans', and patriotic groups) (Skocpol 1999c). The postwar associations had no social dimension: members seldom if ever met face-to-face, individually or collectively. Membership became a political and financial act, not a social commitment (Putnam 2000:148–180).

More importantly, in terms of its political role, the emergent charitable tax-exempt universe of the postwar era differed dramatically from its associational domain of earlier decades. In the past, when national associations, foundations, think tanks, and other philanthropically supported entities sought to influence government, they generally did so as outsiders. In the postwar decades, associations, now enjoying the benefits of charitable tax-exempt status, increasingly became—if not extensions of government itself—an intrinsic part of the *organizational field* of public governance. The relationship between the Brookings Institution and the government which produced the Social Security Act in the 1930s was exceptional. By the late 1950s, such rela-

tionships were becoming routinized not only on the institutional level (with government contracting with think tanks for all manner of policy and technical services) but on the individual level, as professional careers moved individuals from universities to grant-making foundations or from business corporations to government agencies and congressional staffs—and sometimes to elective office (Jenkins 1987).

The most remarkable aspect of the postwar elaboration of federal power was the extent to which it acted through the private sector and states and localities—a fact powerfully demonstrated by table 2.2, which shows federal civilian employment in the period 1951–1999 remaining virtually unchanged while the number of state government employees increased sharply, from 4.3 million to 14.7 million, and employment in the nonprofit sector increased from 5.6 million in 1977 to 9.7 million in 1994. During this period, the flow of direct federal subsidies to nonprofits also increased dramatically from about $30 billion in 1974 to just under $160 billion in 1994.

As noted, the reinvention of American government that took place in the decades following World War II did not follow a master plan. It appears, rather, to have been the outcome of a process of incremental decision making in which deeply embedded prejudices against big government accommodated themselves to the necessities of global leadership. Because the process was incremental, legislators and policy makers remained largely unaware of the extent of the changes they had wrought until forced by circumstances—such as the astonishing proliferation of nonprofit entities—to make sense of them (Donahue 1989).

By the late 1950s, journalists and politicians had begun to call attention to the inequities of the tax code, particularly the extraordinary favors—"loopholes"—from which the very wealthy benefited (Vogel 1989:59–64, 1996). In 1959, in response to efforts to liberalize the tax treatment of charitable contributions by large donors, a vocal minority on the Senate Finance Committee wrote a sharply worded minority report which criticized the proposal. "The tax base is being dangerously eroded by many forces, among them tax-exempt trusts and foundations," the senators declared. "Not only is the tax base being eroded, but even more harmful social and political consequences may result from concentrating and holding in a few hands and in perpetuity, control over large fortunes and business enterprises" (U.S. Senate 1961).

TABLE 2.2. FEDERAL CIVILIAN, STATE GOVERNMENT, AND NONPROFIT EMPLOYMENT (IN MILLIONS), 1951–1999

Year	Federal civilian employees	State employees	Nonprofit employees
1951	2.5	4.3	
1956	2.4	5.2	
1961	2.5	10.2	
1966	2.9	8.5	
1971	2.8	10.2	
1977			5.6
1981	3	13.4	
1982			6.5
1983	2.9	13.2	
1987			7.4
1992	3.1	13.4	9.1
1994			9.7
1999	2.8	14.7	

Source: Hall and Burke 2006.
Note: Blank cells indicate no available data.

In May 1961, Texas congressman Wright Patman issued the first of a series of highly publicized reports criticizing foundation abuses (see Andrews 1969). The Kennedy administration evidently shared these concerns, appointing Harvard Law School professor Stanley Surry—a noted critic of tax code inequities—as assistant secretary of treasury for tax policy.

Inflation and tax increases heightened tax sensitivity during the 1960s—a sensitivity to which politicians were responsive. In the closing days of the Johnson administration, retiring secretary of the treasury Joseph Barr warned of a taxpayer revolt if tax inequities were not addressed. Barr claimed that middle-income taxpayers were bearing the brunt of taxation while millionaires who took advantage of loopholes with the advice of lawyers and accountants paid nothing. Over the coming year, the House Ways and Means Committee held exhaustive hearings covering every aspect of the tax code and its favorable treatment of particular groups and industries, including foundations (Vogel 1989:62).

The hearings on foundations were particularly acrimonious, with members of Congress focusing not only on financial abuses, but also on the ways in which some foundations, such as the Ford Foundation, used their resources for political rather than philanthropic purposes. Foundation leaders stonewalled Congress, defending philanthropy as quintessentially American and challenging the government's right to limit its prerogatives. But echoing Tocqueville in an era when tax policy makers thought in terms of public finance economics proved futile. The Tax Reform Act of 1969 signed by President Nixon included provisions to limit self-dealing and donor control, regulate investment practices and payout, and require the annual filing of financial reports.

Inventing the Nonprofit Sector

John D. Rockefeller 3rd (1906–1978) had admitted to Congress, almost alone among philanthropic leaders, that big philanthropy needed to change its ways. Although deploring many aspects of the 1969 Tax Reform Act, he understood that dampening further outbreaks of regulatory enthusiasm would require foundations and other tax-exempt entities not only to eliminate abuses that attract unfavorable attention from the press and politicians but also to come up with a coherent and compelling rationale for the existence of nonprofits and the privileges they enjoyed. He organized the Commission on Private Philanthropy and Public Needs (better known as the Filer Commission), a privately funded group operating under the sponsorship of the Department of the Treasury that sponsored exhaustive research on tax-ex-

empt organizations and issued a report which, among other things, recommended the establishment of a permanent "bureau of philanthropy" in the Treasury Department (see Hall 1992 and Brilliant 2000). The commission's most enduring contribution was its suggestion that all tax-exempt entities—donor and donee institutions alike—composed a distinctive "third," "nonprofit," or "independent" sector whose welfare was essential to the future of democracy.

Rockefeller's hopes that the Treasury Department would establish a philanthropy bureau were dashed with the election of Jimmy Carter. Reluctant to abandon the achievements of the Filer Commission, Rockefeller and his associates established Independent Sector, a nonprofit umbrella organization that convened donor and donee organizations and encouraged them to identify their common interests. He also provided initial funding for the first academic research center devoted to the study of philanthropy and nonprofits, Yale's Program on Non-Profit Organizations (PONPO).

These efforts represented a new phase in the process of imposing legibility on what had begun in the early 1950s, with congressional attempts to make sense of the rapidly growing and changing domain of "foundations and other exempt entities." Earlier efforts by policy makers, legislators, and scholars had focused on *what* voluntary associations, charitable trusts, eleemosynary corporations, cooperatives, religious bodies, and other nonproprietary entities and activities did. With the concept of ownership form as the framework for enquiry, focus shifted to *how* such institutions functioned and to their relationship to government and business.

This new approach greatly simplified things. What mattered was not the murky issues of charitable intent and altruistic motivation but the awesome diversity of a domain of organizations involved with virtually every kind of activity, organizations that ranged in scale from charitable endowments controlled by a single trustee to private universities and hospitals employing thousands. The sectoral approach focused not on the diversity of organizations within the sector but on their commonalities—on the characteristics of the nonstock corporation, the impact of the nondistribution constraint, and the treatment of these entities by tax and regulatory authorities.

The new approach was not without its critics. One irate foundation executive, on hearing of the establishment of the Filer Commission, privately asked a colleague, "Has charity become all law? Is it irrecoverably committed to lawyers instead of its traditional practitioners?" (Goheen 1974). Later, as scholarship on the new nonprofit sector began to appear, critics worried that the sanitized language of law and economics obscured important aspects of these organizations, particularly their relationship to wealth and power (Karl and Katz 1987; Hall 1992).

The Nonprofit Sector and the Conservative Revolution

For most of the twentieth century, political conservatives viewed the growth of foundation philanthropy and its nonprofit offshoots with suspicion. This was not surprising, given the generally liberal domestic and international policies favored by foundations and the tendency of nonprofits to locate themselves on the front line of struggles for social and economic justice. After the defeat of Barry Goldwater in 1964, however, conservative strategists began to recognize that decisively swaying public opinion in their favor would require more than political agitation. Flush with new wealth from the South and West, conservatives embraced nonprofits, intent on creating a counter-establishment based on policy research institutes, foundations, and advocacy groups sympathetic to their views. These would be important to efforts by conservatives to formulate credible alternatives to dominant liberal policies.

In contrast to Goldwater's ideological posturing, Ronald Reagan, the Republican's candidate in the 1980 presidential election, offered a far more reasoned and grounded set of proposals, including major cutbacks in government spending, which he believed would empower community groups and private initiatives. Breaking with traditional conservatism, Reagan encouraged individual and corporate philanthropy, establishing the Task Force on Private Sector Initiatives, which was directed by Burt Knauft, who had served on the staff of the Filer Commission.

Reagan's policies forced scholars and policy makers—who, until then, had been describing nonprofits as private, donation-supported, voluntary entities—to reexamine their assumptions about relations between nonprofits and government. An important series of studies by political scientists Lester Salamon, Alan Abramson, and others called attention to the extent of the sector's dependence on government subsidy, pointing out that in many industries federal funding composed between a third and three-quarters of organizational revenues (Salamon and Abramson 1982; Salamon 1987). Suggesting that the American welfare state represented a kind of "third-party government" in which federal programs were largely carried out through nongovernmental actors, they predicted that federal spending cuts would cripple nonprofits, rather than empower them.

Contrary to those predictions, Reagan's budget cuts appear to have both stimulated the continuing proliferation of nonprofits (the number of charitable tax-exempt entities increased by more than 30 percent between Reagan's first and last years in office) and enhanced the sophistication with which they were managed. Unlike nonprofit scholars, who were largely occupied with churning out rhetorical justifications for the existence of the sector, practitioners recognized the range of possibilities in a complex funding environment that offered opportunities for supporting organizations with a mix of earned revenues, donations, foundation and government grants, and contracts with governments and business. In the closing decades of the twentieth century, nonprofits would become increasingly entrepreneurial under the guidance of executives trained as management professionals.

The growth of the group-home industry in the 1980s offers an illuminating example of the kinds of innovative nonprofit entrepreneurship that began to emerge in the Reagan

era. As part of a broad process of extending civil rights law to such areas as education and health, the federal courts issued a series of decisions ordering that the mentally disabled be deinstitutionalized and placed in small community-based facilities (Rothman and Rothman 1984; Hall 1996). Unable or unwilling to create and operate such facilities themselves, the states encouraged private groups to provide residential, educational, and rehabilitative services to the retarded and mentally ill. Within a very short period of time, thousands of nonprofit and for-profit firms were established, and they in turn, using millions of state and federal dollars, purchased and renovated residential properties as group homes. Because such a decentralized system was expensive to operate, group-home operators sought economies of scale through various forms of cooperation. In many states, nonprofit holding companies supplied financial and property management services and lobbied and litigated on behalf of the industry. Eventually many providers merged into national companies with huge budgets and impressive political clout.

Human-services contracting proved especially attractive to entrepreneurs because of its physically decentralized character and the variety and richness of its resource base. The complexity of contracting regimes, involving revenues from federal, state, and local governments, as well as donations and grants from private sources, made government regulation and oversight nearly impossible (Smith and Lipsky 1993; Grønbjerg 1993). The closure of state institutions and the placement of hundreds of thousands of clients in nonprofit group homes was accompanied by rising levels of concern about deteriorating care, abuse and neglect, and outright fraud.

With the presidential campaign of Reagan's successor, George H. W. Bush, nonprofits moved to center stage politically. In his 1988 speech accepting the Republican presidential nomination, Bush denounced big government and enthused about the possibilities of replacing the existing system of social welfare provision with "a thousand points of light," each representing a voluntary, community-based initiative serving the dependent and disabled.

Behind the front lines of electoral politics, conservative policy scientists and journalists were devising both the ideas and the programs that would, they claimed, "end welfare as we know it" through aggressive privatization of human services and devolution of government responsibilities to states and localities. Ironically, neither the triumphant conservatives, who took over both houses of Congress in 1994, nor the embattled liberals, who watched in disbelief as the social programs of the past century were dismantled, understood that the much vaunted "Republican revolution" was little more than a continuation and intensification of privatizing and devolutionary dynamics that had been unfolding since the late 1940s. The major innovations were philosophical and rhetorical: the liberal version of third-party government had been based on the belief that alleviating poverty required changes in social and economic conditions; the conservative version was predicated on the notion that changing social and economic conditions required changes in the values and behavior of individuals.

Perhaps the issue that best illuminated the general failure of political imagination in the 1990s was the debate over "charitable choice," the section of the 1994 welfare reform package that promised to remove obstacles to government subsidizing of faith-based human-service provision. Conservatives had enacted the legislation in the belief that there were significant legal obstacles to government support of religiously tied organizations. Liberals reacted to the proposal with alarm, proclaiming that such aid would breach the "wall of separation" between church and state. Neither seems to have been aware that governments had, for decades, been contracting with religious bodies (such as the Salvation Army) and church-controlled secular corporations (such as Catholic Charities and Lutheran Social Services), or that no significant legal obstacles stood in the way of the practice.

The one positive accomplishment of the charitable choice debate was the extent to which it kindled a new appreciation for the importance of religion in public life. For decades, academics and policy makers had acted on the assumption that secularization was an inevitable concomitant of modernity and that religion had long ceased to wield any significant public influence. The astonishing political mobilization of Christian conservatives in the 1980s, which had largely made possible the conservative revolution, challenged these assumptions (see Hodgson 1996). They were further challenged by the failure of efforts to establish market democracies after the fall of the Iron Curtain—which made evident the extent to which the viability of economies and governments depended on the values and informal social networks that bound citizens together and enabled them to act collectively (Putnam 1994, 1995, 2000; Fukuyama 1995). Religious institutions, it turned out, were centrally important as settings in which citizens acquired the values and skills needed to be economically and politically effective (Verba, Schlozman, and Brady 1995).

By the 1990s, religion and religious institutions were generally understood, by conservatives and liberals alike, to be important components of the nonprofit sector—a fitting conclusion, given the fact that religious entities composed 20 percent of America's nonproprietary organizations and represented nearly 60 percent of the sector's revenues.

The charitable choice debate also raised some important questions about the actual impact of efforts to dismantle big government. Religious bodies, even when providing services under government contract, had been largely free of the monitoring and oversight to which secular entities were subjected. As religious leaders contemplated charitable choice, they became aware that increased volumes of government revenue might be accompanied by public demands for accountability and compliance with industry standards. A backward glance at the ways in which the secular charities had been transformed into quasi-governmental "nonprofits" in the decades following World War II was hardly reassuring. More than anything else, it raised the question of whether "privatization" meant the dismantling of big government—or an unprecedented expansion of government into new domains of activity. Recognizing the extent to

which dependence on government funding might compromise their capacity to "speak truth to power," many religious bodies declined to avail themselves of the opportunities offered by charitable choice initiatives.

THE FUTURE OF THE NONPROFIT SECTOR

This chapter began with a description of the difficulty of constructing a historical account of the nonprofit sector—a synoptic conception that had not, until thirty years ago, been considered to be a coherent domain of institutions, organizations, and activities. Speculating about the future of the nonprofit sector is no less problematic, because accelerating changes in public policy and in organizational practices defy any effort to capture the essence of nonprofit enterprise.

Nonprofits were once constrained by legal definitions of charity that required them to serve a fairly narrow range of charitable, educational, or religious purposes; today all that the law requires of nonprofits is that they not distribute their surpluses (if any) in the form of dividends and that their beneficiaries be a general class of persons rather than specific individuals. As a result, nonprofits can now be found providing every sort of good and service.

The formal organizational characteristics have become similarly protean. In addition to traditional types of membership and nonmembership organizations, incorporated and unincorporated associations, freestanding charitable trusts and aggregations of trusts under common administration (community foundations), and freestanding and federated/franchise form nonprofits, there are organizational hybrids in which for-profit and nonprofit units are nested in various ways. In the health-care industry, for example, it is not uncommon to have nonprofit hospitals operated by for-profit companies or to have for-profits in control of nonprofit subsidiaries. Many nonprofit universities own the investment firms that manage their endowments. Some for-profit companies, such as Newman's Own, donate all their profits to charity. The for-profit financial services firm, Fidelity Investments, has become one of the major managers of charitable funds, rivaling community foundations in the size of its assets. The range of variations is seemingly endless.

Government-nonprofit hybrids have also become increasingly common. Publicly controlled nonprofit corporations, such as the Port Authority of New York and New Jersey, have for decades been among the largest and most powerful entities in many American cities. Municipalities have frequently delegated economic development, housing, and urban revitalization tasks to nonprofits. Government-nonprofit hybridization has been given further impetus by the privatization of a wide range of public services.

Despite the trend toward formal elaboration among many nonprofits, the realm of informal nonprofits has grown dramatically. Alcoholics Anonymous and other self-help groups which are unincorporated and which have no formal structure command the loyalty of millions both here and abroad. These loosely federated small groups, usually clustered around formally incorporated general-service organizations that provide publications and technical assistance to members, are a relatively new organizational form, which only began to emerge in the 1930s.

The religious domain has produced as many organizational variations as the secular realm. Over the past half century, there has been a huge proliferation of freestanding nondenominational congregations, as well as faith communities that eschew traditional congregational forms. After years of litigating with the Church of Scientology over its eligibility for tax exemption, the IRS finally conceded that it could not come up with a definition of "religious organization" that did not violate the Constitution's Establishment Clause, which states that "Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof." Today virtually any organization can qualify for exemption as a religious organization as long as it conforms to the general requirements imposed on all nonprofits.

The resource base of nonprofits has become diverse as well. While there are still many organizations supported by donations and endowment income, they have been joined by entities that are wholly dependent on the sale of goods and services, grants, contracts, and government vouchers. Once wholly dependent on contributions to defray capital costs, today nonprofits not uncommonly finance physical expansion through the sale of government-guaranteed tax-exempt bonds.

As Evelyn Brody notes in this volume, American charities law has become singularly nonprescriptive about the substance of charitable activities, concerning itself almost entirely with formal issues of fiduciary behavior. As a result, the range of purposes for which nonprofits are created is virtually unlimited. (There are exceptions, such as Pennsylvania law, which has made tax exemption contingent on specific standards of charitableness and public benefit—but no other state has followed its lead.)

The body of law relating to nonprofits continues to grow and change, responding not only to the shifting political inclinations of voters, legislators, and the judiciary but also to ongoing innovations in organizational form, role, and function. For much of the twentieth century, law and policy treated nonprofits as quasi-public entities, subject to regulatory accountability and compliance with civil rights legislation. In recent years, with such decisions as the U.S. Supreme Court's 2003 decision in *Boy Scouts of America v. Dale,* the pendulum has begun to swing back toward treating nonprofits as private associations. In its ruling, the court held that the Scouts enjoyed a "right of intimate association" that permitted them to exclude homosexuals, atheists, and others who did not embrace their beliefs. This right has been used as the basis for permitting faith-based charities receiving government funds to practice employment discrimination.

Regulatory modalities are changing as well. After a succession of scandals involving such high-profile nonprofits as the United Way, Covenant House, the New Era Foundation, and the Red Cross, conventional forms of accountability based on filing periodic reports with the IRS and other agencies are being replaced by mandated public disclosure of

pertinent financial information. Rather than subjecting nonprofits to scrutiny by often toothless regulatory bodies, this new regime empowers the general public to make informed judgments about whether organizations are worthy of its support and often provides the information needed to spark journalistic exposés and initiate civil litigation.

The forces shaping the future of American nonprofits do not originate solely within the United States. In recent years, a variety of new kinds of nongovernmental organizations have emerged which operate globally. Some of these are domestically based entities that provide services abroad. Others are genuinely transnational, involving cooperative and collaborative relationships among advocates, funders, and service providers operating across national borders. Many of these pursue broad humanitarian agendas, promoting sustainable development, human rights, economic and environmental justice, and other causes that seek to advance the well-being of humanity in general rather than that of particular nations.

Another manifestation of globalization that is significant for nonprofits is the growing presence in the United States of communities of foreign workers and refugees from developing and transitional countries. Ineligible for public services because of their alien status, the task of providing for their educational, health, and welfare needs is falling to nonprofit agencies, often religious congregations and other faith-based organizations from outside the Judeo-Christian tradition. As labor markets become more globalized and the labor force more mobile, these communities are likely to grow in ways that will both challenge existing religious and secular agencies and introduce new charitable players (such as transnational Islamic, Hindu, and Buddhist organizations) to the American scene.

Given the variety of forces and actors involved, it seems inevitable that the nonprofits of the future will be as kaleidoscopically varied and complex as those of the past, and that their changing forms and functions will continue to defy the efforts of scholars and lawmakers to measure them against any abstract standard of charitableness, public benefit, or voluntariness.

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